S. Hrg. 100-473

VA COMPENSATION AND OTHER SERVICE-CONNECTED BENEFITS

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 9, S. 453, S. 917, S. 919, S. 940, S. 1002, S. 1090, and S. 1365

JUNE 30, 1987

Printed for the use of the Committee on Veterans' Affairs

U.S. GOVERNMENT PRINTING OFFICE
81-832 WASHINGTON : 1988

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S761-8

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CONTENTS

JUNE 30, 1987

Page
VA Compensation and Other Service-Connected Benefits ... 1

STATEMENTS BY COMMITTEE MEMBERS

Chairman Cranston ... 1
    Prepared statement of Chairman Cranston ... 115
Senator DeConcini ... 129
Senator Matsunaga ... 134
Senator Mitchell ... 12
Senator Murkowski ... 126
Senator Rockefeller ... 131
Senator Thurmond ... 3

WITNESSES

Bland, Albert J., Director, American Defenders of Bataan and Corregidor, Inc., accompanied by Paul Reuter, Adjutant ... 37
    Prepared statement of Mr. Bland and Mr. Reuter ... 298
Broudy, Pat, Litigation Director, National Association of Radiation Survivors ... 39
    Prepared statement of Ms. Broudy ... 322
Brown, E. Cooper, Legislative Counsel, International Alliance of Atomic Veterans ... 42
    Prepared statement of Mr. Brown ... 341
Burke, John, President, National Association of Radiation Survivors, and Director, Colorado Atomic and Agent Orange Veterans Coalition, accompanied by Bill Rowe, Vice President, National Association of Radiation Survivors ... 41
    Prepared statement of Mr. Burke ... 327
Campbell, Robert L., Commander, AMVETS Trinity Post 745, Portland, ME ... 26
    Prepared statement of Mr. Campbell ... 261
Chittick, Geraldine B., Legislative Chairman, Gold Star Wives of America, Inc., accompanied by Nan Nave ... 16
    Prepared statement of Ms. Chittick ... 208
Cullinan, Dennis M., Assistant Director, National Legislative Service, Veterans of Foreign Wars of the United States ... 19
    Prepared statement of Mr. Cullinan ... 229
DeGeorge, Frank R., Associate Legislative Director, Paralyzed Veterans of America ... 18
    Prepared statement of Mr. DeGeorge ... 211
Faron, Robert S., member, Board of Directors, National Association of Atomic Veterans ... 23
    Prepared statement of Thomas J. Houser, Chairman, Washington Support Group, and Mr. Faron ... 246
Gates, James, Illinois State Coordinator, International Alliance of Atomic Veterans ... 25
Heilman, John F., National Legislative Director, Disabled American Veterans ... 15
    Prepared statement of Mr. Heilman ... 186
Kerry, Hon. John F., a U.S. Senator from the State of Massachusetts ... 31
    Prepared statement of Senator Kerry ... 286
McCain, Hon. John, a U.S. Senator from the State of Arizona ... 10
    Prepared statement of Senator McCain ... 159
Musten, W. Curtis, Sr., National Commander, American Ex-Prisoners of War, accompanied by Dr. Charles A. Stenger, Consultant on Legislative Affairs ... 29
    Prepared statement of Mr. Musten and Dr. Stenger ... 269
Prigmore, Dr. Charles S., Legislative Officer, American Ex-Prisoners of War ... 35
    Prepared statement of Dr. Prigmore ... 295
Pryor, Hon. David, a U.S. Senator from the State of Arkansas ... 21
    Prepared statement of Senator Pryor ... 242

Page
Sommer, John F., Deputy Director, National Veterans' Affairs and Rehabilitation Commission, The American Legion 14
  Prepared statement of Mr. Egan and Mr. Sommer 162
Vogel, R.J., Chief Benefits Director, Veterans' Administration, accompanied by Donald Ivers, General Counsel; and Dr. Arthur Graham, Director, Radiology Service 8
  Prepared statement of Mr. Vogel 141

APPENDIX

Bills:
  S. 9—A bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes 45
  S. 453—A bill to amend title 38, United States Code, and the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to improve the standards for determining whether a radiation-related disease is service-connected, and for other purposes 63
  S. 917—A bill to amend title 38, United States Code, to authorize a headstone allowance for prepurchased grave markers and to modify eligibility requirements for the plot allowance, and for other purposes 70
  S. 919—A bill to amend title 38, United States Code, to authorize the Administrator to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress 72
  S. 940—A bill to amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes 74
  S. 1002—A bill to amend title 38, United States Code, to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the United States nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan; and for other purposes 82
  S. 1090—A bill to amend title 38, United States Code, to provide authority for higher monthly installments payable to certain insurance annuitants, and to exempt premiums paid under Servicemen's and Veterans' Group Life Insurance from State taxation 104
  S. 1365—A bill to amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war 113
Statements:
  Archer, Dr. Victor F. 352
  Bradley, Dr. David, Dartmouth College, Policy Studies Program 355
  Gale, Dr. Robert Peter, Associate Professor of Medicine, University of California at Los Angeles 358
  Mossman, Kenneth L., Professor, Georgetown University 360
  O'Dell, Richard E., National Treasurer, Vietnam Veterans of America, Inc 369
  Pressler, Hon. Larry, a U.S. Senator from the State of South Dakota 372
  Simon, Hon. Paul, a U.S. Senator from the State of Illinois 374
  The National Military Family Association 377
Written committee questions and the responses:
  Chairman Cranston to:
    Disabled American Veterans 381
    Veterans' Administration 384
  Senator Mitchell to the Veterans' Administration 393
  Senator Murkowski to the Veterans' Administration 394

VA COMPENSATION AND OTHER SERVICE-CONNECTED BENEFITS

TUESDAY, JUNE 30, 1987

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 8:45 a.m., in room SR-418, Russell Senate Office Building, Hon. Alan Cranston (chairman of the committee) presiding.

Present: Senators Cranston, Matsunaga, DeConcini, Mitchell, Rockefeller, and Thurmond.

OPENING STATEMENT OF CHAIRMAN CRANSTON

Chairman CRANSTON. The hearing will please come to order. I thank all of you for coming so early. I regret that there are some conflicting matters that we have to attend to that caused us to have to meet early; and I have to leave at 9:15 to go down to the White House on the Iranian Gulf reflagging matter, but we will have others who will be presiding through the whole morning.

I welcome all of you to today's hearing on legislation relating to VA compensation benefits. We appreciate the testimony of all of our witnesses on subjects ranging from proposals to exempt certain VA compensation and related programs from Gramm-Rudman sequestration to initiatives to provide benefits for certain radiation-exposed veterans and former prisoners of war. As the author of S. 9, S. 1002, and, along with Senator Graham, of S. 1365, I will of course be very interested in the testimony on these measures, as well as on Senator Murkowski's bill and on the Administration's bills.

I have a very detailed prepared statement, which is available at the press table. Briefly, S. 9 would provide for a COLA for compensation and DIC recipients equal to the COLA percentage to be provided for social security and VA pension recipients, currently estimated by CBO to be 4.1 percent.

Meeting the needs of our veterans who suffer from disabilities resulting from their service and the survivors of those who have made the ultimate sacrifice for our Nation will remain my No. 1 priority in veterans' affairs.

S. 9 also would provide a permanent exemption from Gramm-Rudman sequestration for various VA benefits, principally those for service-connected veterans.

S. 1002 and S. 453 would provide disability and death benefits for veterans who were exposed to ionizing radiation through their participation in the nuclear weapons testing program or the American occupation of Japan. Although many of these veterans now suffer from radiogenic cancers, the VA has denied over 99 percent of all benefits claims filed by radiation-exposed veterans or their survivors since 1978.

S. 1002 would address the two key obstacles radiation-exposed veterans face when applying for VA benefits. First is the impossibility of determining, with respect to a given veteran, whether his disability was caused by radiation exposure rather than by something else. S. 1002 would provide that disability or survivors' benefits be awarded based on the susceptibility of a given cancer to radiation exposure and to other risk factors pertinent to that cancer.

The second barrier S. 1002 deals with is the growing evidence that the radiation exposure levels computed by the Defense Nuclear Agency are likely often significant underestimates. Accordingly, S. 1002 would require that the DNA exposure estimates be adjusted upward according to a specified methodology. Veterans exposed to radiation through service to our Nation deserve far more equitable and compassionate consideration than they have received thus far. It is unjust and unfair to continue to withhold compensation in deserving cases because unassailable scientific confirmation is not available.

S. 1365, which I was delighted to join with Senator Graham and others in introducing, would establish presumptions of service connection for three diseases of former prisoners of war under certain conditions. The basic purpose of these provisions is to lessen the burden on former prisoners of war to submit evidence to the VA showing that certain disabilities are service-connected, evidence which, as a result of lack of adequate or any repatriation examination records, may not be available in many cases. In the case of the three diseases included in S. 1365, adequate scientific evidence exists to support their link with extreme stress and malnutrition and, in one case, with cold injury—common features of the daily existence of a prisoner of war.

I would also like to announce a joint legislative initiative with Senator Kerry, which I anticipate he will discuss later in this hearing, that would provide for an independent, comprehensive review and analysis of the scientific evidence pertaining to the human health effects of exposure to Agent Orange and its component compounds.

Finally, I would like to thank the witnesses for their prompt submission of testimony to the committee for today's hearing. I particularly would like to thank the VA—John Vogel and the others who helped him—for ensuring that the VA's testimony was submitted last Friday. That was a big help, as was the VA's timely submission of its testimony for last week's AIDS hearing, and all of us on the committee greatly appreciate this fine degree of cooperation.

Senator Murkowski is enroute from Alaska. In the event that he is unavoidably detained, he has requested that his statement be submitted as part of the hearing record. Strom, do you have an opening statement?

[The prepared statement of Chairman Cranston appears on p. 115.]

[The prepared statement of Senator Murkowski appears on p. 126.]

OPENING STATEMENT OF SENATOR THURMOND

Senator **Thurmond**. Yes, Mr. Chairman. It is most appropriate that we are here today to receive testimony on the subject of ionizing radiation and disability compensation.

This issue has been considered before. It is one which stirs great amounts of emotion. We must show extra caution, therefore, to ensure that the compensation issue is presented in a sound yet compassionate manner. Our ultimate goal is to see that those who suffer health problems today as a result of past service to their country receive the recognition and care which they deserve. Our country has taken some positive steps in recent years in an effort to meet its obligations to the atomic veterans. With the passage of Public Law 98-542, the Veterans' Administration was required to prescribe special regulations for the purpose of establishing service-connected disabilities due to radiation exposure. More recently, a national register was established within the VA health-care system for atomic veterans, similar to the one which was developed for veterans exposed to Agent Orange.

Today, this committee will receive testimony on the reasons why veterans exposed to ionizing radiation should receive disability compensation. However, we must not lose sight of our primary responsibility, which is to take care of those who are ill as a result of their service to their country. The bottom line is whether the veteran's illness is attributable to their service.

Exposure to radiation does not necessarily equate with illness. We must direct our efforts and limited resources, therefore, to recognizing and providing for those who are suffering health problems as a direct result of their exposure.

I appreciate the presence of the witnesses here today, and I look forward to hearing and reading their testimony. I have another hearing I have to go to, Mr. Chairman. Thank you very much.

Chairman **Cranston**. Thank you very much, Strom. I want to say that I am going to have to depart from the usual order at this point. I must leave in a few minutes, as I indicated, to attend a meeting at the White House. Thus, in order to make sure that I can get some questions asked of the VA panel, I will pose questions right away and then ask Mr. Vogel to give his 5-minute summation. Senators Mitchell, Matsunaga, and Rockefeller have kindly agreed to fill in for me until I can return after the White House meeting. There is also a Senate vote that may interrupt scheduling. I regret if there are some unavoidable recesses this morning as a result of this situation.

I want to say a word of welcome to Pat Broudy before I leave here. Pat is an old friend and comrade-in-arms on the radiation front. She has appeared before this committee here and in California several times and is a great champion of justice for radiation-exposed veterans and their families. Pat, I want to try to make sure to hear your testimony; so I am going to ask that your appearance be delayed until I get back, presuming I do get back. I will try hard to do so.

Now, if I may ask these questions: What is the status of each of the National Academy of Sciences studies regarding ex-POWs? And when will the reports on each of them be completed?

Mr. VOGEL. Mr. Chairman, I am not sure I can enumerate them. I could provide it for the record. Perhaps Mr. Ivers could respond.

Chairman CRANSTON. Would you please provide that for the record?

Mr. VOGEL. Yes, sir.

[Subsequently, the Veterans' Administration furnished the following information:]

The ongoing National Academy of Sciences/National Research Council (NAS/NRC) morbidity study is nearing completion. Results from this study are being prepared for submission to the scientific literature this fall. A final report is due when the results have been accepted for publication.

A second, separate study, hte NAS/NRC medical examination study, is also underway. Roughly, 30 percent of the examinations have been received by the NAS/NRC and the coding and abstracting have begun. A directive is being prepared to advise VA medical centers on the conduct of the remaining examinations. It is anticipated that these examinations will be completed in approximately a year, and that a draft report will be prepared in the fall of 1988 for submission to a scientific journal.

Chairman CRANSTON. On pages 11 and 12 of your testimony, you describe the provisions of S. 1365 providing for presumptions of service connection for three diseases cf ex-POWs under certain conditions. However, you don't mention the provision limiting the presumptions to cases in which the disease became manifest within 10 years after release from interment and thereafter was manifested continuously or on a regularly intermittent basis. Do these circumscribing conditions make these presumptions more acceptable to you?

Mr. VOGEL. Mr. Chairman, we believe there is a likelihood that diagnosis and continuity of treatment would arise before 10 years. Any manifestation within 10 years would probably be more likely to be supported by the Administration. However, my belief is that they would most likely be manifest in 1, 2, or 3 years—fairly shortly after service—and would be service-connected, if not on a presumptive basis within a year, on a direct basis to the military service.

Chairman CRANSTON. But at least those qualifications would make the matter more acceptable to the Administration?

Mr. VOGEL. Yes, Mr. Chairman.

Chairman CRANSTON. Thank you. The American Ex-POWs contend that the Board of Veterans' Appeals has taken the position that it is not bound by two major VA policy decisions regarding consideration of the claims of ex-POWs. The first is a policy set forth in M21-1 essentially requiring that the ex-POW's statement be accepted as proof of the actual occurrences during captivity "if residual disability is noted which can be attributed to the service incident."

The second is stated in the Administrator's September 2, 1983, letter transmitting the Advisory Committee's 1983 Report to the Congress. In that letter, the Administrator stated his concurrence with the Advisory Committee recommendation that claims adjudicated prior to the conduct of an ex-POW's medical examination pursuant to the new protocol for such examination "should be reopened on the request of the claimant with the examination considered new and material evidence" so as to warrant reopening automatically.

I take it, Mr. Vogel, you are familiar with both of these matters?

Mr. VOGEL. Yes, I am, Mr. Chairman.

Chairman CRANSTON. Why hasn't the VA adopted these policies in a form that would clearly be binding on the Board of Veterans' Appeals?

Mr. VOGEL. The guidance provided in the M21 manual is merely that; it is not regulatory in nature. It was intended as guidance on the part of the Department of Veterans' Benefits to provide further exercise of the doctrine of reasonable doubt by taking the burden off of POWs and to try to—very frankly—be much more liberal in our interpretation, thereby allowing them service connection.

The Board of Veterans' Appeals is not bound by guidance manuals. However, we would expect them to adhere to the spirit of it. I think I would be overstepping myself to try to speak for the Chairman of the Board of Veterans' Appeals with respect to their application and their interpretation of those provisions of the manual.

With respect to the protocol examinations, our belief is that any veteran coming forth willing to take that examination under that protocol does provide for us a new way in which to assess his claim and to reconsider all issues, whether they be increases or whether they be claims for initial service connection.

Chairman CRANSTON. Mr. Ivers, let me ask you this. Why can't these be considered instructions from the Administrator and therefore binding on the BVA?

Mr. IVERS. Senator Cranston, the instructions—as John said—are simply that the manuals have always been considered in that way, as manuals and circulars. They have not been adopted as regulatory, nor have we opined in a manner that would make them binding on the BVA.

Chairman CRANSTON. Policy directives from the Administrator are binding, are they not?

Mr. IVERS. Policy directives?

Chairman CRANSTON. Yes.

Mr. IVERS. Not necessarily on the BVA.

Chairman CRANSTON. What form of action is binding on the BVA, if any?

Mr. IVERS. Statute regulation and precedent opinion by the General Counsel's office.

Chairman CRANSTON. Couldn't these be issued as regulations then, in such a form as to be binding?

Mr. IVERS. I would have to review them. I assume that they could be. Yes, sir. I would have to review them to tell you definitely whether or not they could be issued as regulations or whether they should be issued as regulatory matters.

Chairman CRANSTON. Mr. Vogel, if you think this is a good policy, what is your view then on issuing directives as regulations so they would be binding?

Mr. VOGEL. Obviously, we believe it is good policy, Mr. Chairman. Otherwise, we wouldn't have published them. I think that, in the manner that Mr. Ivers suggested, that we could clearly review those instructions in the adjudication manual and determine whether or not all or part of them, with respect to former prisoners of war, could be issued in regulatory fashion. We would be pleased to undertake such a review.

Chairman CRANSTON. Would you please do that and report back to us as soon as you can?

Mr. VOGEL. Certainly.

[Subsequently, the Veterans' Administration furnished the following information:]

Section 4004(c) of title 38 also specifies that the Board is bound by "instructions of the Administrator," in reference to the long-discontinued practice of issuing interim Administrator's instructions to implement public laws. VA historical files show that the last such instruction was issued in 1967 and pertained to the just-enacted Public Law 89-641. Currently, the departments issue interim instructions in the nature of circulars to fill the void between the date of an enactment and the issuance of implementing regulations. These departmental circulars are not binding on the appeals board.

Chairman CRANSTON. Thank you. The Ex-POW Advisory Committee has recently submitted its biennial report. When will the Administration transmit that report to the Congress, along with its comments and recommendations?

Mr. VOGEL. I am not certain, Mr. Chairman. On the morning that the Administrator received it, General Jack Flynn, the Chairman of the Advisory Committee, carried copies of the report to the staff of the committees. My understanding was that that was the final report; but I think, under the law, the Administrator is obligated to put a cover on that, his comments, and transmit it.

Chairman CRANSTON. Yes, we would like to get those comments.

Mr. VOGEL. Yes, sir. We will expedite getting those to you.

Chairman CRANSTON. Could you report back on when we could expect that?

Mr. VOGEL. Yes, sir. I would be pleased to.

Chairman CRANSTON. Thank you.

[Subsequently, the Veterans' Administration furnished the following information:]

The Biennial Report to the Administrator and the Congress of the United States by the Advisory Committee on Former Prisoners of War was submitted to the Administrator by committee chairman Lt. Gen. John P. Flynn on June 8, 1987. Comments on the remarks and recommendations have been prepared. They are currently in the concurrence process within the Agency. We expect final approval and transmission to the Congress within the next 2 weeks.

Chairman CRANSTON. On page 13 of your testimony, you indicate that the VA's basis for opposing presumptive service connection of peptic ulcer disease for former POWs is that you are "unaware of any substantive medical justification" for it. However, in a 1970 Australian study in which 170 ex-POWs and matched controls were examined, they found peptic ulcer disease was more than twice as prevalent among the former POW group as compared with the control group.

Would you please reconsider your opposition in light of that study, especially in view of the condition in S. 1365 that the disease must be manifested within 10 years of interment and must recur continuously or intermittently thereafter? And report back to us as soon as possible?

Mr. VOGEL. Yes, we will, sir.

Chairman CRANSTON. Thank you.

[Subsequently, the Veterans' Administration furnished the following information:]

The results of the Australian study do not necessarily relate to veterans of the U.S. Armed Forces. In addition, the Australian study to our knowledge has not been replicated and accepted by experts in the U.S. medical community.

Also, with respect to the etiology of peptic ulcer disease, it remains unknown. Current medical research suggests that numerous factors play a role, including impaired mucosal resistance, somatostatin deficiency, and others, with "stress" as an etiologic factor in the cause of peptic ulcer disease not playing as significant a role as previously thought. (Reference: M. M. Wolfe, M.D., 9th Annual Intensive Review of Internal Medicine, Department of Continuing Education, Harvard Medical School.)

Chairman CRANSTON. In your testimony on page 14, you indicate that the VA has allowed "some 28" of the more than 6,000 claims for VA benefits filed by radiation-exposed veterans or their survivors since 1978. Can you explain how this statistic demonstrates, as you suggest, that the VA compensation system currently provides fair and adequate adjudication of such claims?

Mr. VOGEL. Mr. Chairman, those 28 claims were allowed based on exposure to radiation. Some other number—that I don't have with me—were granted service connection on a direct basis. So, there are some number more; I am not suggesting the number is very large.

Chairman CRANSTON. What do you mean by "direct basis"?

Mr. VOGEL. That there was a manifestation of the disease entity that was in a presumptive period or in service itself and thereby substantiated a grant for service connection.

Chairman CRANSTON. Are you talking about radiogenic cancers?

Mr. VOGEL. Cancers—some of the others could be considered nonradiogenic but had their first manifestation during or shortly after separation from service and thereby would be granted service connection on that basis.

Chairman CRANSTON. Do you have any tabulations of those cases?

Mr. VOGEL. I am not sure whether our computer-assisted tracking system would be able to draw those out or not, but I will have the staff review it and provide that, if it is available, sir.

Chairman CRANSTON. What baffles us is the citing of 28 claims allowed out of 6,000 as proving fair and adequate adjudication. It may be, but it is hard to see how that figure would indicate that.

Mr. VOGEL. Of the 6,000, about 4,400 claimed that they were exposed to atomic weapons testing and/or were with the American occupation forces at Hiroshima and Nagasaki. The difference of 1,600 were those who felt that they were exposed—medically exposed or exposed in another nuclear accident of some kind or incident to other military duties; 4,400 of those individuals were present at the test sites or in the occupation forces. If you just divide the 28 into 6,000, the numbers don't appear to be and are not great—no question about it. But in the adjudication of the claims, we look at the dose estimates provided by the DNA and find very frequently that dose estimates received—and we receive a range—and if we do, we take the higher number—are so small that they are held to be noncausative as to radiogenic disease.

Chairman CRANSTON. With respect to these 28 allowed claims, could you please get us a summary for the record of the facts involved in each case, including the dates, circumstances, and level of exposure assumed, the radiogenic conditions for which service connection was granted, and the percent of disability compensation?

Mr. VOGEL. Yes, sir. We would be pleased to, Mr. Chairman.

[Subsequently, the Veterans' Administration furnished the information which appears on p. 138.]

Chairman CRANSTON. If you could do the same for any of the other so-called "direct basis" cases that you referred to?

Mr. VOGEL. Yes, sir, if I am able to identify them. I am not sure if we will be able to.

[Subsequently, the Veterans' Administration furnished the following information:]

We have tentatively identified 285 other cases in SIRS which may involve radiation claims allowed on a so-called "direct basis." As soon as we are able to review those cases, we will furnish a summary of pertinent information.

Chairman CRANSTON. Would you also advise the committee of such data each time a claim based on radiation exposure is granted so we can maintain an up-to-date summary?

Mr. VOGEL. Yes, sir.

Chairman CRANSTON. If you could get us a summary as well as the answers to written questions we will have for you by July 7, I would appreciate it very much.

Mr. VOGEL. Yes, sir.

Chairman CRANSTON. That covers the questions I had, so if you could now proceed with your testimony?

STATEMENT OF R.J. VOGEL, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION, ACCOMPANIED BY DONALD IVERS, GENERAL COUNSEL, AND DR. ARTHUR GRAHAM, DIRECTOR, RADIOLOGY SERVICE

Mr. VOGEL. Thank you, Mr. Chairman. I have a brief summary statement. I will try to go through that quickly.

I would like to first address those measures that represent VA initiatives and then comment on the bills that you enumerated. My remarks will focus on the more salient features of the items under discussion. Our principal initiative introduced as S. 940 would provide automatic increases in the rates of service-connected compensation and for DIC payable to surviving spouses and children.

In addition, it would improve the standards for VA recognition of foreign adoptions, expand the fire insurance income inclusion to include comparable payments received from other sources. It would extend the REPS coverage to survivors of veterans who are in receipt of the equivalent of social security benefits under section 412(a) of 38 U.S.C. It would authorize the uniformed services to deduct by offset from military retired pay or retainer pay a veteran's indebtedness to the VA; authorize the VA to offset from disability compensation or pension to collect overpayments of military retired or retainer pay; and authorize the VA to require the disclosure of claimants' and dependents' social security numbers in all claims for disability and death benefits.

A second measure, S. 917, would authorize a headstone allowance for prepurchased grave markers, limit eligibility for the plot allowance similar to that for burial allowance, and exempt certain cemetery land from the upright grave markers requirement.

The third package would increase the amount of monthly payments to annuitants under certain VA insurance programs, exempt premiums under SGLI and VGLI from the taxation by State and other governmental authorities, and allow the VA to assume the administrative functions under the Veterans' Mortgage Life Insurance Program.

Lastly, S. 1090 would authorize the VA to assume the administrative functions of the VMLI Program which provides life insurance to disabled veterans who receive specially adapted housing. It would also allow the funding of the VMLI payments through the "Veterans' Insurance and Indemnity" appropriation rather than through the "Burial Benefits and Miscellaneous" appropriation.

A final measure, introduced at the VA's request, would authorize the Administrator to fund requirements on non-VA property adjacent to national cemeteries in order to provide safe egress and ingress to those cemeteries.

Turning to other legislation before the committee, S. 9 would increase the statutory rates of service-connected compensation including a special clothing allowance for certain severely disabled veterans and DIC payable to surviving spouses and children of veterans by indexing the rates of this social security cost-of-living adjustment.

Although we do not oppose the one-time-only indexing provisions of S. 9, the agency believes that the direct permanent indexing of the benefit payments to the annual CPI adjustments would be a preferable approach to ensure full and timely increases. The bill would also expand eligibility for education and rehabilitation assistance available to beneficiaries with alcohol and drug dependence, extend or establish exemptions from sequestration for specified veterans' benefits, and increase benefits under the VA's housing, automobile, and burial assistance programs.

S. 9 would also increase the benefits payable under the specially adapted housing program, funeral and burial expenses for veterans who die from service-connected causes, and the automobile allowance. We do not support adjusting payment levels for these programs at this time.

We oppose those portions of S. 9 which alter the eligibility requirements for educational and vocational rehabilitation assistance. We see no compelling reason for exempting education assistance criteria from the VA's long standing rule on willful misconduct.

S. 1365 would expand eligibility for former prisoners of war by adding peripheral neuropathy, irritable bowel syndrome, and peptic ulcers to the statutory list of medical conditions.

The disabilities specified ordinarily would become manifest and require treatment upon repatriation or shortly thereafter. We feel that it is probable that the claims involving those conditions would have been granted on a direct basis based on VA review of the available medical evidence.

Further, VA's policy is to treat claims of former POWs in a liberal manner, giving special considerations to the hardships and privations they endured, resolving all reasonable doubt in their favor.

Our principal reservations concerning the bill are that the medical conditions enumerated do not lend themselves to presumption of service connection.

S. 453 and S. 1002 would provide disability and death benefits for veterans and their survivors for certain radiogenic diseases manifested within specified periods of time following a veteran's participation in nuclear testing or in the American occupation in Hiroshima or Nagasaki.

The measures under discussion are not justified by accepted scientific knowledge and, as a result, would seriously undermine the bases of the compensation program.

All authoritative scientific evidence indicates that the vast majority of atomic veterans receive very low doses of radiation. They fall in that range of the average annual dose received by the general population from natural background sources and routine medical procedures. Reliable studies suggest that the excess health risks from those low levels are infinitesimally small. We believe it is better public policy to look at each case individually and separate the more deserving claims from those less deserving.

Finally, we object to those sections of the bills which would require the VA in adjudicating radiation claims to double or otherwise increase the dose estimates provided by the Defense Nuclear Agency. These provisions arbitrarily denegrate the years of work performed by DNA in painstakingly tabulating and reconstructing dose data.

Mr. Chairman, that concludes the summary statement; and we would be pleased to answer any questions that you or members of the committee may have.

Senator MITCHELL. Thank you very much, Mr. Vogel, Mr. Ivers, and Dr. Graham. I have no questions for you. I am sure all the committee members will carefully review your testimony. Thank you very much.

Mr. VOGEL. Thank you, sir.

[The prepared statement of Mr. Vogel appears on p. 141.]

Senator MITCHELL. All right. It is rare that a Member of the U.S. Senate is able to testify with such firsthand knowledge as our next witness will be able to testify. Senator John McCain of Arizona is not only a distinguished Member of this legislative body; he also has a distinguished military record including a period of time as a prisoner. He is highly respected by all Members of the Senate, not only for his distinguished record and courage, but also for the contribution he makes to this body.

And we are very pleased to welcome Senator McCain here this morning.

Senator, good morning, and we look forward to hearing from you.

STATEMENT OF HON. JOHN McCAIN, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator McCAIN. Thank you very much, Mr. Chairman. I am indeed flattered by those very kind words. As the chairman well knows, it doesn't take a lot of talent to get captured; but I do feel that hopefully on this issue I can bring some insight.

Senator MITCHELL. It takes a lot of sacrifice and courage to be put in a position where you may be captured, and we recognize and respect you for that.

Senator MCCAIN. Thank you, Mr. Chairman, and I would again like to express the gratitude of millions of veterans who are deeply appreciative of your efforts and those of the chairman of this committee and the ranking member. All too often, unfortunately, the Senate and particularly this committee seem to be the court of last resort for many of our veterans. But it is truly tragic that members of this committee and you in particular must "protect" the very vital needs and benefits our Nation's veterans have earned.

Mr. Chairman, I would like to summarize my statement if I could, and submit my written statement for the record, because I know you have a number of witnesses ahead. And I would like to address just the legislation concerning the ex-POWs. As you are well aware, Mr. Chairman, all through our history, we have had those who have served; we have had those who have been wounded, those who have died, and those who have been captured. Those who have had the misfortune of being held in captivity defended our Nation under the most arduous conditions. From Andersonville to Bataan to the Hanoi Hilton our country's POWs fought with courage and skill. American POWs have exhibited, I think, the finest traits and character of the American dream, the American citizen, of service and sacrifice; but Mr. Chairman, I think we must be willing to care for them who have borne the battle.

There are many powerful and searing accounts of courage, heroism, and ingenuity in the face of multiple tortures, starvation, and loneliness—and there are witnesses who will follow me today who, I believe, are ample testimony to that.

In an effort to put their experiences behind them and reunite themselves with their families, many former POWs did not submit to thorough medical examinations upon their repatriation and subsequent discharge from the military.

This was especially true of those former POWs of World War II and Korea. In fact, this is one of the reasons why, in July 1983, the VA Department of Medicine and Surgery established a standard protocol for obtaining the history and medical evaluation of ex-POWs; but there is still a need that exists. Many of the estimated 80,000 former prisoners of war who are still alive are quietly enduring the pain of a variety of ailments that have a direct causal relationship to their experiences while in captivity.

While I am pleased that S. 1365 addresses three of these disorders and provides presumptive compensation for peripheral neuropathy, irritable bowel syndrome, and peptic and duodenal ulcers, I do not believe the restrictive language regarding manifestation of the condition within 10 years after the last date of the veteran's interment is necessary.

Mr. Chairman, by the VA's own admission, they are cognizant that the initial tendency of many ex-POWs is to put aside their traumatic experiences, hinder the development of evidence to substantiate disability claims in future years.

As we are all well aware, statutory presumptions are not conclusive but refutable by evidence that establishes the conditions claimed as unrelated to service. Additionally, officials at the VA have stated that, if presumptive compensation were established for the preceding three maladies, they do not believe bogus claims for service connection would be successful. Therefore, I would hope that you would amend S. 1365 by removing the 10-year manifestation period and adopt language similar to that recently incorporated in H.R. 1544.

There is another vital issue concerning dental benefits, in H.R. 1544 that is of major importance to the leadership of the American ex-POWs. I support them in their position on this issue as well.

In closing, I would like to thank you again, Mr. Chairman, for all the support you have rendered our Veteran community. All of our veterans of military service are owed a special debt of gratitude, and I think what we are doing today and what this committee has done in the past is indicative of our appreciation. But we must continue to fulfill the obligation to provide our veterans with the benefits which they have so richly earned in the service of our country.

Thank you, Mr. Chairman.

Senator MITCHELL. Thank you very much, Senator McCain. We appreciate very much your testimony.

[The prepared statement of Senator McCain appears on p. 159.]

Senator MITCHELL. I would like to make a brief statement of my own. I will call the next panel now and they can take their seats. Then, I will go to them for testimony.

Mr. Paul Egan, Deputy Director of the National Legislative Commission, and Mr. John Sommer, Deputy Director of the National Veterans' Affairs and Rehabilitation Commission, The American Legion; John Heilman, National Legislative Director of the Disabled American Veterans; Mrs. Geraldine Chittick, Legislative Chairman, and Ms. Nan Nave, Gold Star Wives of America, Inc.; Frank R. DeGeorge, Associate Legislative Director, Paralyzed Veterans' of America; and Dennis Cullinan, Assistant Director, National Legislative Service of the Veterans of Foreign Wars of the United States.

Thank you, ladies and gentlemen, for being here.

OPENING STATEMENT OF SENATOR MITCHELL

Senator MITCHELL. I want to begin by commending the chairman of this committee for holding this hearing to examine legislation affecting disability compensation benefits for men and women injured while serving in the armed services. I am especially interested in the testimony today relating to compensation for claims based on ionizing radiation as a result of participation in this country's atmospheric nuclear testing program. This is a difficult area for many reasons, including the sensitivity of the issue, the lack of absolute knowledge, the scientific uncertainty that has existed about the effects on human beings of exposure to radiation.

This issue, the compensation of these men and women for illnesses or injuries they may have suffered as a result of their service, has many aspects, each controversial and difficult; and they will all be discussed this morning.

The question of repealing the present $10 limitation on attorneys' fees; the question of allowing judicial review of VA compensation decisions; the repeal of the Warner amendment; and the VA's adjudication process as seen in the NARS versus Turnage case in Federal court also deserve our attention.

We have an obligation if we are to be a decent and compassionate society to make the fullest possible inquiry and to do what we can to make compensation as we can to correct the errors of the past.

It is important that this matter be pursued vigorously, not only from the standpoint of individual veterans and their families, but from the standpoint of our concept of what our society is and should be. This is not a perfect Nation. Just as individuals who make up our society make mistakes, so also does our Government make mistakes. The real test of any human society is not its infallability because none is. Rather, it is to be judged by its willingness to acknowledge error and, more importantly, once acknowledged, to correct error.

I again commend the Chairman for holding this hearing. Indeed, both the chairman and the ranking member, Senator Murkowski of Alaska, must be commended for introducing legislation designed to improve the compensation of radiation based claims. That is what we are in the process of trying to do here, and I will work with them to fashion an appropriate response to the issues aired this morning.

Before closing, I want to acknowledge the contributions made by Robert Campbell of Portland, Maine, to my efforts to understand and deal with the issues associated with the so-called "Atomic Veterans." Rob Campbell was a participant in the Greenhouse series of nuclear tests. He serves as Post Commander for AMVETS Trinity Post 745, the only post of any recognized veterans' organization whose membership consists solely of participants in nuclear test programs.

He is also a service officer for AMVETS, specializing in atomic radiation claims. I very much appreciate his willingness to share with me his considerable expertise on the subject of atmospheric nuclear testing and the VA's compensation claims process. I am pleased and proud that his testimony will be presented as part of today's hearing.

I do want to apologize in advance. I will have to leave prior to 10 o'clock because I am chairing a markup session of another subcommittee on the subject of clean air. We are talking about atmospheric pollution, and we are hoping to report out legislation from our subcommittee today on that, and I have to be at that meeting beginning at 10 o'clock. So, I do look forward to the testimony between now and then, and I will review with particular interest the testimony of the radiation organization panel because of my special interest in that subject.

I am pleased now also to be joined by the distinguished Senator from Arizona, Senator DeConcini.

Senator DeConcini. Mr. Chairman, thank you. I would ask unanimous consent that my statement be inserted in the record before my colleague, Mr. McCain, who testified just a few minutes ago.

Senator Mitchell. Without objection, it will be done.

Senator DeConcini. Thank you.

[The prepared statement of Senator DeConcini appears on p. 129.]

Senator MITCHELL. Thank you. Mr. Egan. I am sorry; Mr. Sommer.

STATEMENT OF JOHN F. SOMMER, DEPUTY DIRECTOR, NATIONAL VETERANS' AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. SOMMER. Mr. Chairman, I am John Sommer with The American Legion. We appreciate this opportunity to summarize our views on the numerous issues under consideration today. Because of the number of issues, we shall touch briefly on just a few of them.

We are certainly in support of an increase in the disability compensation of DIC benefits; however, we are opposed to permanently indexing the compensation and DIC increases to social security or any other economic indicator. We feel that the annual hearings on this legislation to provide increases also provide a forum at which to address other related issues of importance. If these benefits were indexed, it would possibly obviate the need for the hearings.

The Legion strongly supports section 5 of S. 9, as we believe that it would finally remove the stigma that has been attached to the disease of alcoholism by the VA regulations that label the acquisition of this condition as "willful misconduct." The American Legion applauds the fact that the committee has moved forward to consider legislation to change the manner in which radiation exposure cases are adjudicated by the Veterans' Administration.

We ask that the committee take a close look at the proposal that we have set forth, keeping in mind the plight of the veterans involved, the frustrations that they have faced in attempting to secure enefits, and the fact that it looks as if nothing in the way of meaningful scientific research will be completed during the lifetime of most of the atomic veterans.

The American Legion supports the enactment of S. 1365 to provide that peripheral neuropathy, irritable bowel syndrome, and peptic ulcer disease are presumed to be service-connected if manifested within 10 years of the former prisoner of war's interment.

We are totally opposed to the section of S. 917 that would change the eligibility of the plot allowance by making it consistent with the eligibility requirements for basic burial allowance. The American Legion supports the intent of section 202 of S. 940 to expand the current fire insurance exclusion relating to income for pension purposes; and we would like to take this opportunity to commend to the committee a series of improvements to the death and disability pension programs that we have identified as necessary to correct inequities that exist therein.

There have been no hearings on the pension program that we are aware of since the enactment of Public Law 95-588, and we feel that it is long overdue.

Mr. Chairman, that concludes our summary.

Senator MITCHELL. Thank you, Mr. Sommer. Mr. Heilman.

[The prepared statement of Mr. Egan and Mr. Sommer appears on p. 162.]

STATEMENT OF JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. HEILMAN. Yes, sir. Good morning, Mr. Chairman and Senator DeConcini. I will summarize my statement this morning, Mr. Chairman. With respect to S. 9, our organization is very pleased by this multiprovision measure; it contains many proposed benefit improvements, and I will just briefly make reference to them because it is an important bill.

Obviously, we support the provision on DIC, and I have made reference in my statement regarding the fact that the bill directs the Administrator to adjust the rates effective December 1 of this year in accordance with the same percentage that is given to social security benefits. And I have mentioned that, while this might be considered by some as similar to or leading to indexing, we support the legislative increase as proposed in the bill and feel that does not violate our position against the indexing of these benefits.

We appreciate and support the proposed increases in the housing awards, the automobile grants, service-connected burial benefits. We are pleased to support section 5 of the bill, which in our view represents a compassionate response in terms of the educational entitlements of veterans and eligible participants who might have problems utilizing their benefits because of substance abuse.

We feel the proposal is reasonable and just. And finally, we do support the last section of the bill, the additional protections against sequestration—future sequestration—with respect to Public Law 99-177. This committee and your counterpart in the House have addressed this issue in the last few years and given protection to important VA benefit programs, and we deeply appreciate the fact that you are adding permanent protection from sequestration for chapter 31 and chapter 35 benefits, as well as the Loan Guaranty Program.

With respect to the issue of the radiation bills, S. 453 and S. 1002, again we want to commend the chairman, the ranking minority member, and all members of the committee who have associated themselves with these bills. It is long overdue in terms of the benefit entitlement of this category of VA claimant. It has been amply demonstrated this morning the unique situation that radiation veterans and their survivors find themselves to be in vis-a-vis their service-connected entitlements because of the inability of the scientific community to state definitively that there is a cause and effect relationship between exposure to low levels of ionizing radiation and subsequently developing conditions and the controversy that surrounds the Defense Nuclear Agency estimates of exposure that was experienced.

These veterans simply have not been able to satisfy existing law and regulation with respect to claims for service connection. Mr. Chairman, you mentioned the other avenues that have been viewed regarding this issue—judicial review, the NARS litigation out in California, the possibility of allowing these claimants to sue the Government. We don't think that is the appropriate redness for this issue. We think the approach that is demonstrated in the bills is the way to go—simply change the law and authorize presumptions for these radiogenic conditions. There are obvious differences between the two bills that are pending before the committee this morning and also the bill that is being acted on in the House.

Nevertheless, you are all in the same ball park. You are taking the fundamental identical approach of recognizing that these radiogenic conditions are related to exposure experienced in authorizing benefits. So, we are very supportive of this legislation. We are confident that the two committees can work out the differences.

With respect to the POW liberalizations in S. 1365, we support adding these three conditions of peripheral neuropathy, irritable bowel syndrome, and peptic ulcers to the section 312(b). I would echo the sentiments that were expressed by Senator McCain this morning. We would urge the committee to delete the requirement that these three conditions manifest themselves within 10 years of the incarceration experience and also show indications of continued existence thereafter.

We think many deserving cases would be excluded from benefit entitlement, should this restrictive language be kept in; and I do want to remind the committee that, under current law, section 313 has provisions for the presumptive conditions that are now in section 312. That is, if there is evidence to the contrary or indications of an intermittent disease or injury that is the cause of the disability, then service-connected status can be withheld by VA.

And we feel that program integrity is, therefore, protected, and you do not need this restrictive language.

Finally, Mr. Chairman, with respect to the four Administration bills, I would only make two references, that is, to the indexing proposal that is contained in one of them. As I stated before, we are opposed to that, and the restrictive change that is proposed with reference to the burial plot allowance. We don't believe that is a good idea. We have no objection to the consideration of the other provisions that are contained in these four bills.

That concludes my statement, Mr. Chairman.

Senator MITCHELL. Thank you very much, Mr. Heilman. No group of individuals is more deserving of the respect and gratitude of the Nation than the Gold Star Wives. We are honored that you are with us today. It has been several years since your organization has appeared before this committee, and we are pleased to welcome you back, Ms. Chittick.

[The prepared statement of Mr. Heilman appears on p. 186.]

STATEMENT OF GERALDINE B. CHITTICK, LEGISLATIVE CHAIRMAN, GOLD STAR WIVES OF AMERICA, INC., ACCOMPANIED BY NAN NAVE

Ms. CHITTICK. Thank you, Mr. Chairman. I would like to explain that I did invite Ms. Nave to sit here with me in the event my voice doesn't hold out during the brief testimony I will give. Your most welcome invitation to appear before this committee was gratefully received.

We do thank you for inviting us to make a personal presentation of the views of Gold Star Wives of America concerning dependency and indemnity compensation. We are delighted to be here, and we trust that the lines of communication between the committee and our organization are firmly reestablished.

Service widows are indeed grateful that DIC and other important benefits are sequestered from budgetary restrictions, and we would remind the committee that Gold Star Wives of America does have a membership restricted to those whose husbands either died while on active duty or of disabilities incurred during such service.

In regard to S. 9 to increase the rates of DIC, an increase is indeed a necessity in order to help compensate for the depreciation of income through inflation. For the past several years, we have had deepening concerns for the widows in the lower ranks of the rate schedule. It is extremely difficult to explain to a struggling elderly widow a CPI which indicates a given percent as being the rate of inflation when, in reality, her DIC increase is required to meet each of the inflated costs of the necessities of life—housing, utilities, food, and medical costs.

We do not believe the consideration that should be given to DIC, which is intended to compensate for the loss of a spouse due to service to his country, should be equated with social security policies. And many occupations prior to World War II were not covered by social security, and DIC is the only source of income for many of the older widows. Each year those in the E-1 to E-2 rates stay just a step ahead of the poverty level.

In addressing S. 940 for indexing DIC, we believe indexing would eliminate what we consider a valuable vehicle, which is currently available for review of the DIC program. Without annual consideration, we would be especially concerned that the needed revision of the DIC formula would be continually delayed.

Gold Star Wives of America looks forward to the time the DIC formula can be revised. Each year the COLA continues on the current formula, the disparity between top and bottom of the schedule becomes more disproportionate. Under current budget problems, we realize the impossibility of funding the type of DIC formula revision that is merited and desirable.

When restructuring is economically feasible, it must allocate available funds in a fair and equitable manner; and we recognize that an acceptable revision will not be easily reached. Our organization requests that steps be implemented which would progress toward an acceptable formula. We believe the recommendation of Gold Star Wives presents a plan which would be fair and which inflation would not make obsolete.

An equal base pay on which all COLAs would apply plus a fixed amount based on rank and length of service; and we have some other DIC concerns. We believe passage of legislation to permit remarriage without loss of DIC is long overdue for consideration. It is discriminatory to deny this privilege to a service widow when the husband's contribution was his life instead of monetary.

Also, Gold Star Wives would like to see a more liberal interpretation of aid and attendance and housebound benefits. The permanent designation fails to provide for the person living alone who is faced with a condition which temporarily places her in a position that assistance is required.

The loss of CHAMPUS or CHAMPVA coverage and the decreasing coverage of spiraling medical costs by Medicare is creating an extreme hardship among our members.

Thank you for the opportunity to participate in this hearing, and I will be pleased to answer any questions.

Senator MITCHELL. Thank you very much, Ms. Chittick, for your thoughtful testimony.

[The prepared statement of Ms. Chittick appears on p. 208.]

Senator MITCHELL. Before hearing from the last two witnesses on this panel, I would like to note the presence of Senator Rockefeller, one of the distinguished and contributing members of this committee and ask whether you have an opening statement you care to make, Senator Rockefeller?

Senator ROCKEFELLER. I do, Mr. Chairman, but I will submit it for the record.

[The prepared statement of Senator Rockefeller appears on p. 131.]

Senator MITCHELL. All right. Thank you very much.

Mr. DeGeorge, welcome, and we look forward to hearing from you.

STATEMENT OF FRANK R. DeGEORGE, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. DEGEORGE. Thank you, Mr. Chairman. PVA wishes to express our appreciation for your efforts in conducting these important hearings on important matters that will improve benefits for veterans and their programs. Thank you.

Mr. Chairman, we also thank you for your effort to introduce S. 9 to provide a rate increase for disability compensation and dependency and indemnity compensation by the same percentage that social security benefits are increased, effective December 1, 1987. PVA is supportive of section 2; it is consistent with the historical intent of Congress to ensure that veterans, their dependents and survivors' benefits are provided at an appropriate level of income maintenance.

PVA supports this legislation, but only with the promise that an adequate cost-of-living increase be provided in a timely fashion and that the committee ensure that the rate of increase be no less than the actual impact of inflation over the preceding 12-month period since the last rate adjustment.

PVA has supported H.R. 1084 pending further action in the House. This measure also provides a COLA increase at a 4.1-percent rate increase.

Regarding the DIC Program which provides for the service-connected disabled veterans' survivors, I would like to take advantage of this opportunity to reiterate PVA's long-standing position as we remain discontented by the awarding of DIC benefits based solely on military pay grade rather than veteran's degree of disability.

PVA has previously submitted our concerns for the record. However, PVA further believes that a periodic review of these programs is imperative. PVA supports section 3 to provide an increase in the maximum grant for specially adapted housing assistance grants and to increase the specially adapted housing allowance. Mr. Chairman, we really truly appreciate these improvements for all of PVA's members are catastrophically disabled veterans, and we know all too well the difficulties associated with and the true value of affordable, accessible housing.

Mr. Chairman, there exist three bills in Congress that address ionizing radiation. They are S. 453, S. 1002, and H.R. 1811, which would establish presumptions of service connection or provide for special consideration in adjudicating claims related to certain specified diseases suffered by veterans who have been exposed to ionizing radiation during World War II and during atmospheric testing of nuclear weapons.

PVA applauds the authors of all three bills and supports the intent of the various legislation and in amending title 38, United States Code, by adding the provision of presumption of service-connected for at least leukemia and thyroid cancer and possibly other diseases, as evidence would warrant.

This would address and begin to recognize the needs of the veterans and their families for compensation long overdue by our Government by providing certain VA benefits to this particular group of deserving individuals.

Importantly, S. 1365 introduced by the Honorable Bob Graham will provide appropriate recognition to improve veterans' benefits for former prisoners of war. PVA applauds the consideration of this committee to recognize the experiences of former prisoners of war. PVA believes, as members of this committee do, that the services rendered by veterans who were former prisoners of war can never be fully compensated by our grateful Nation, and we are in accord with the purpose of S. 1365.

Mr. Chairman, PVA wholeheartedly supports the favorable and expeditious passage of this measure and H.R. 1543 and H.R. 1544, which are similar in the House.

PVA opposes the provisions of S. 940, section 101, to amend section 3112, title I of title 38, United States Code. Mr. Chairman, your bill, S. 9, which we commented on earlier, in itself preserves the authority in appropriations processes of the Congress to determine what is necessary and to provide cost-of-living increases to the Nation's veterans, their dependents, and survivors. S. 9 is consistent with your efforts, past and present.

Mr. Chairman, that concludes my statement at this point.

Senator MITCHELL. Thank you, Mr. DeGeorge. Mr. Cullinan.

[The prepared statement of Mr. DeGeorge appears on p. 211.]

STATEMENT OF DENNIS M. CULLINAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. CULLINAN. Thank you, Mr. Chairman and members of the committee, for this opportunity to present the views of the Veterans of Foreign Wars with respect to the numerous pieces of legislation affecting various VA benefits.

The first bill under consideration today is S. 9, the proposed Service Disabled Veterans' Benefit Improvement Act of 1987. Section 2 of this bill would provide a cost-of-living increase in the rates of disability compensation for veterans who suffer from service-connected disabilities and the rates of dependency and indemnity compensation for survivors of veterans who have died from service connected disabilities.

This compensation COLA would be in line with the one provided for social security and VA pension benefits. The VFW supports this proposal. Section 3 of S. 9 would provide an increase in the maximum amount of VA specially adapted housing assistance grants to certain severely disabled service-connected veterans, as well as increasing the funeral and burial allowance for service-connected deaths.

These rates have not been increased since January 1, 1985, and the Veterans of Foreign Wars supports this provision to increase them. Section 4 of this measure would also provide an increase from $1,100 to $2,250 for the allowance which the VA pays at the request of survivors to defray funeral and burial expenses for a veteran who dies of service-connected causes. The VFW supports this provision, which provides for a rather conservative and long overdue upward adjustment.

Section 5 provides for the total education and rehabilitation assistance delimiting periods by reason of incapacity due to alcohol and drug conditions. The VFW concurs that there is no substantial purpose to be served by denying a veteran a GI Bill delimiting period extension when the veteran had been prevented by a drug and alcohol disability from using the GI Bill educational assistance. Therefore, we strongly support this section.

Section 7 of S. 9 would provide for an increase in the maximum amount of automobile assistance allowance provided by the VA to veterans with certain service-connected disabilities. The VFW supports this section.

Finally, section 8 of this bill would make permanent the Gramm-Rudman-Hollings sequestration exemptions for the VA's program of vocational rehabilitation for certain service-connected veterans and the program of educational assistance for survivors and dependents of service disabled veterans.

The VFW strongly supports this section inasmuch as it is our firm belief that it was not truly the intention of the Congress to subject programs for service-connected veterans to cuts under the Balanced Budget and Emergency Deficit Control Act of 1985. The next two measures under consideration today, S. 453, Veterans' Ionizing Radiation Compensation Improvements Act of 1987, and S. 1002, the Veterans' Radiation Exposure and Death Benefits Act of 1987, are similar in intent, so we will address them both collectively and individually.

Both of these measures address the two primary reasons that over 99 percent—well over 99 percent—of all claims for VA benefits filed by veterans suffering from radiation related disabilities have been denied. The first reason these veterans have been shut out of the VA compensation system is that more often than not it is virtually impossible to determine absolutely whether a given veteran's disability was caused by his exposure to radiation incident to his service in the Armed Forces. The second reason for this most unfortunate situation is the grossly underestimated radiation exposure level of these veterans as recorded by the Defense Nuclear Agency that the VA relies on in adjudicating such claims.

The two bills under discussion would not only add to the list of presumptive disorders for peacetime or wartime disability and death compensation, but would also amend title 38 to establish compensatory systems to augment the VA's current procedures for adjudicating these claims so they may be granted without fully meeting the VA's stringent standards for establishing a causal relationship between a service-related incident and a resultant disability.

Time constraints will not allow for an in-depth discussion of these two bills to provide this Nation's atomic veterans with the degree of long overdue relief from a grateful Nation.

We have in fact provided our observations and recommendations regarding the particulars of both bills in our written statement, and it would now suffice to say that the VFW supports both of these innovative legislative initiatives.

Shall I continue, Mr. Chairman? I see my time has expired.

Senator MITCHELL. Yes, your time has expired. If you have any important points you would like to make, could you summarize them just briefly, Mr. Cullinan? We have a lot of witnesses today.

Mr. CULLINAN. That will conclude my statement.

Senator MITCHELL. All right. I assure you that your written statement will be included in the record, and the committee and staff will review it. We greatly appreciate the testimony of all of you, ladies and gentlemen. Your suggestions will be of value and will be pursued by the committee. Senator Cranston will have a few written questions to submit to you, and we ask that your responses be completed and returned to the committee by July 7, if that is possible.

In addition, Senator Murkowski will have some written questions for the Veterans' Administration following the hearing. Mr. Thompson, we ask that answers to these questions also be provided by July 7, if possible.

I am now pleased to turn the Chair over to Senator Rockefeller.

[The prepared statement of Mr. Cullinan appears on p. 229.]

Senator ROCKEFELLER. It is now my honor to present Senator David Pryor from Arkansas, who is a long-time champion of veterans who have suffered the problems and ramifications of exposure to radiation. Senator Pryor has pursued this issue vigorously through a number of hearings, including his home State of Arkansas. He has been aggressive in pursuing legislation to help veterans in addition to being good to other Senators and mankind in general. [Laughter.]

STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator PRYOR. Thank you, Senator. Mr. Chairman, my brief testimony today relates to S. 1002; and I would like to first thank you for allowing me to testify very briefly on behalf of the atomic veterans of my home State of Arkansas.

I have identified in the past several weeks some 200 veterans of our State who were exposed to dangerous levels of radiation during service to our country. Two weeks ago, Mr. Chairman, I had a very, very constructive meeting in Little Rock with 60 of these men to discuss their inability to get VA benefits for radiation related sicknesses and the need for help from Washington. That help thus far has been denied.

That group of men and their families joined in asking me to thank Senator Cranston, the chairman of this committee, and other members of this committee and the Senate for their support and their endorsement in the introduction of this legislation to help atomic veterans in this very, very special problem. At our meeting in Arkansas, Mr. Chairman, I heard that many of our atomic veterans had really given up hope that a law would ever be passed to help them.

I heard that many atomic veterans have already died of cancer, apparently caused by radiation exposure. They died not knowing how their survivors would handle the financial burdens left by their illnesses.

It is no wonder that many, many of these people had lost hope. For some 40 years, our own Government, Mr. Chairman, has turned its back on these men. They are truly the forgotten veterans of America. The Government is unwilling to accept the responsibility for the consequences of exposing over 200,000 soldiers in military uniform to dangerous levels of radiation.

Mr. Chairman, I would like to submit, if I might, for the record a statement given to me by one Arkansas man who sailed on the U.S.S *Hesperia* during the 1946 Operation Crossroads nuclear test at the Bikini Atoll. I would like to ask, Mr. Chairman, that this be placed in the record at the appropriate place.

Senator ROCKEFELLER. That will be done.

Senator PRYOR. The *Hesperia* observed one atmospheric test and visited the site of another on the day after the detonation. The most troubling aspect, I think, of my constituent's statement relative to this venture reads, and I quote: "A careful search of Crossroads radiation data revealed that no one aboard the *Hesperia* had a radiation exposure badge for the operation." In other words, our own Department of Defense has no accurate measure of how much radiation the crew was actually exposed to.

The lack of exposure monitoring, I think, was pure negligence on the part of the Department of Defense and has only complicated the extremely difficult task of helping the deserving individuals who have suffered from radiation exposure.

Mr. Chairman, finally, the long awaited legislation, introduced by Senator Cranston and others, answers the prayers of many Americans; and I pledge my support for this bill.

And on behalf of those veterans in my State who have been affected by radiation, I thank you, Mr. Chairman, for allowing me to come and for the efforts of this committee to pass this legislation at the earliest possible time.

Senator ROCKEFELLER. Senator Pryor, thank you very much for taking your important time on an issue which I know you care about very, very deeply.

Senator PRYOR. Thank you, Mr. Chairman.

[The prepared statement of Senator Pryor and the article appear on p. 242.]

Senator ROCKEFELLER. I am very grateful to you.

The next panel will be called first with only three parts of that panel, and we will hold one part of that panel for a little bit later when Senator Cranston returns. Mr. Thomas Houser and Mr. Robert Faron, who represent the National Association of Atomic Veterans; Mr. Cooper Brown, Legislative Counsel and Mr. James Gates, Vice President, International Association of Atomic Veterans; and Mr. Robert Campbell, Post Commander of AMVETS Trinity Post 7-45. Mr. Faron, do you want to begin?

STATEMENT OF ROBERT S. FARON, MEMBER, BOARD OF DIRECTORS, NATIONAL ASSOCIATION OF ATOMIC VETERANS

Mr. FARON. Thank you very much. Mr. Chairman, my name is Robert Faron; I am a member of the Board of Directors of the National Association of Atomic Veterans. Mr. Thomas Houser expresses his regrets to the committee but he is unable to make it today; he is out of town. I have been joined by Mr. Lucius Smith, the Adjutant General to NAAV, who is in the audience. Mr. Smith has been a tireless worker on behalf of the atomic veterans, and we very much appreciate all the good work that he has done.

I am prepared to summarize my testimony, and I wish that a copy be inserted in full in the record.

Senator ROCKEFELLER. That will be done.

Mr. FARON. Thank you very much. The National Association of Atomic Veterans is extremely pleased over the introduction of S. 1002 and S. 453 and the hearings which have begun today with regard to these bills. We are thankful that after 40 years Congress has begun to recognize the problems facing these American citizens who were exposed to the unhealthy effects of radiation who have suffered, without recognition, without medical care, for many years, and without disability and compensation benefits to which they would otherwise have been entitled had they been wounded, maimed, or injured in combat.

The essential elements of these bills is that, by their passage, the country will recognize a service connection to injuries of these Americans based upon exposure to radiation.

These bills bypass the position that has previously led to a stalemate in addressing these extremely important issues since they avoid to place upon the atomic veteran the burden of proving legal causation of his injury based upon scanty evidence of exposure available and the uncertain scientific understanding of causation which exists today.

Instead of litigation, these bills offer an opportunity to the veteran to utilize the resources of the Veterans' Administration and of this country in seeking relief based upon generally understood presumptions concerning relationships of exposure to radiation and resulting diseases, but without the enormous burdens of establishing legal proof or the need to point blame in any direction.

The General Accounting Office, based on a 2-year study of radiation exposure of the Crossroads veterans, has found that estimates of radiation prepared by the Defense Nuclear Agency for that operation may have significantly understated the actual ionizing radiation exposure received by participants in Operation Crossroads;

but the VA, in evaluating claims, generally has denied veterans' claims based upon radiation exposure estimates.

Our members have found that the burden of proving causation linked to service activity has been too great a barrier to overcome. It is for just such a reason that it is important that this Congress pass a bill like S. 453 or S. 1002 in some form. It is important to recognize the elements of basing service connection on exposure, presuming the causal effect of exposure, and shifting the burden of proving negative causation to the Government are important elements in establishing a compassionate response to the needs of these American soldiers and their dependents.

Each of these Americans involved in the occupation of Hiroshima and Nagasaki or in the atomic tests entered into an implied social contract with this country upon their enlistment that they would be treated as any other serviceman who is injured during his service period. It is the purpose of this legislation to make available the benefits of that contract to these atomic soldiers.

We have supported S. 453 when it was introduced by Senators Murkowski, Domenici, Warner, and Dixon in February and which began to focus the debate on the need to recognize the contribution of these veterans.

We are also pleased that the debate has been heightened—indeed moved forward—by the introduction of S. 1002, introduced by the Chairman, Senator Cranston, Senator Matsunaga, Senator DeConcini, Senator Mitchell, yourself, Senator Rockefeller, Senator Pell, and our good friend, Senator Simon. We are also extremely pleased by the support that we have gained from our good friends in the House of Representatives, Congressmen Rowland, Applegate, Hammerschmidt, Montgomery, Solomon, and McEwen, who introduced H.R. 1811.

The Senators and Congressmen who have supported our efforts have earned our respect and our gratitude. We would be delighted to see any one bill reported out, and we leave the task of reconciling the details of these bills to those members and their able staffs who have studied this issue long and with great diligence and compassion.

However, unlike witnesses who may have appeared before this committee at some point in time, we are not attempting to win a settlement of this complicated issue in a single spectacular agreement. We are anxious to support Chairman Cranston and the ranking minority member, Senator Murkowski, who are genuinely trying to break a stalemate which has gone on for more than a generation.

As Senator Cranston and our good friend, Senator Simon, noted, in his introductory statement, we must start someplace, and we must lay aside individual interests in order to provide the maximum compensation for the greatest number of people at this time. I am a volunteer in this effort because of the illness of my father who is suffering a blood disease which has reduced him from a vigorous man to a pale and diseased individual. He was a member of an air crew at Operation Sandstone. We are not sure what caused this disease, but he lived on the Gilbert and Marshall Islands for 3 months. He flew twice in and near the atomic cloud that was detonated, and he flew home for 5 days in the very aircraft that was used to fly through the atomic cloud.

We are not sure of the causal connection, nor do we think that we might legally be able to ever prove his damages, nor do we know whether, at this point, we would seek to do so; but we believe that veterans like my father should have the benefits available under the VA system for compensation and disability if they have these diseases and they were exposed to radiation.

Mr. Chairman, we are extremely pleased to appear here today in support of the initiative of Senator Cranston and Senator Murkowski, with your support. For the first time since the invention of the atomic bomb, the representatives of all parties and interests are talking. Whatever proposal is arrived at in the final reconciliation, the National Association of Atomic Veterans is proud of the Senate and House Veterans' Affairs Committees and other members who have joined in this cause. Thank you very much.

Senator **Rockefeller**. Thank you very much, Mr. Faron, for your excellent testimony. Mr. Gates, would you like to be next, sir?

[The prepared statement of Mr. Houser and Mr. Faron appears on p. 246.]

STATEMENT OF JAMES GATES, ILLINOIS STATE COORDINATOR, INTERNATIONAL ALLIANCE OF ATOMIC VETERANS

Mr. **Gates**. Yes, sir. Mr. Chairman, thank you for inviting me here this morning; and I would also like to apologize for Mr. Cooper Brown, who is the spokesman for the International Alliance of Atomic Veterans. And I am one of the persons who was at the Nevada Test Site.

Senator **Rockefeller**. Do you have any comments that you would like to make regarding any of this legislation? Or do you have any personal thoughts that might be on your mind?

Mr. **Gates**. I would like to see the VA hospitals—excuse the expression—stop suppressing the evidence of these atomic veterans that go to them. And I would like to see Washington work on this as fast as possible to pay these boys and the ladies, the wives, the victims, off as soon as possible.

Senator **Rockefeller**. Do you have any thoughts about any of the individuals whom your organization represents or concerns that you have about them and treatment that they are or are not receiving?

Mr. **Gates**. Are you talking about the victims?

Senator **Rockefeller**. Yes, I am.

Mr. **Gates**. My comrades or just people involved?

Senator **Rockefeller**. Both.

Mr. **Gates**. Yes. Most of them are dead that I knew. It is just short; most of them are dead. It is a horrible thing, Senator. And the people that I work for, they are courageous to come here and fight for this sort of thing, and I appreciate that very much.

Senator **Rockefeller**. We appreciate your comments very much, Mr. Gates. Mr. Campbell, we would be glad to hear your testimony.

STATEMENT OF ROBERT L. CAMPBELL, COMMANDER, AMVETS TRINITY POST 745, PORTLAND, ME

Mr. CAMPBELL. Thank you, Mr. Chairman, and good morning, ladies and gentlemen. You will have to excuse me; I am a little bit nervous doing this. We are also facing a death at home, and I really feel I should be home, but my wife thought I had better be here today. On behalf of the members of my post, we are very pleased to endorse Senator Cranston's bill, S. 1002. However, we do have a couple of problems with the bill, and perhaps they are just technical in nature.

Number one, in any bill that I have read, sir, it does not include in its identifying language those American POWs who were stationed at Camp No. 6 in Nagoya at the time of the bombing and were subsequently taken into Hiroshima to do cleanup work before the Japanese surrender. And I respectfully suggest that those men be included and identified as atomic veterans.

The other problem we have is with the 30-year latency period for certain leukemias. I have a member of my own post, Mr. John Grifalconi of Rhode Island, who was at Operation Crossroads, who was identified as having terminal leukemia well beyond the 30-year period that this regulation would prescribe. And I really think the evidence is not yet in; and to preclude certain people over an arbitrary time period not really substantiated by medical evidence is wrong.

There is another issue I would like to address. We have been working on this issue nearly 10 years now, sir. We do know for a fact that there are those cases which, under current law, fall between the cracks; and I believe and respectfully suggest that the committee consider some type of humanitarian compensation. There is the case of Mr. Simon of Illinois who has a gentleman from his State whose family has been beset by genetic defects that are just unbelievable. There is another case of a former POW from California who did cleanup work in Hiroshima who just recently died of cancer. His family was also beset by genetic defects.

And I think there is something here that calls us to go beyond what is written in the law; and I would respectfully request that the committee consider that. I have knowledge of a number of cases which I would be more than willing to make the committee aware of; and perhaps, in consultation with your colleagues in the House, you might come up with something that can help these people because they have paid the price. There is no doubt about that.

I have also heard it said that there will be—perhaps not in our lifetime—any medical study of any type that would help us. To that end, that is probably true; however, we in our post have begun a project known as "Project HARP"—health and risk profile. It is not an epidemiological study. It would look at the current health of all atomic veterans, as well as studying the records of deceased atomic veterans and also at the children of atomic veterans. It has a wellness provision in it which, if something were noticed by the physicians that were starting to appear in a certain age group of children or in a certain group of veterans, they could get to all of the survivors and warn them to see their physicians and inform the physicians what was taking place.

So, we could practice some preventive medicine and hopefully maybe save a life, instead of counting another death certificate. I tried to get a copy of Project HARP to the committee. If it hasn't gotten here yet, I will make sure that it does.

I have also heard it said, sir, the cost of compensation would be against Gramm-Rudman and this or that or what have you. In that vein, I have heard figures mentioned, something like $23 million to $500 million; but I submit, sir, that the Congress does have the money for this compensation bill or other compensation bills. I mean, I just read in the newspaper the other day where the State Department is going to spend $6.5 million to build 10 $650,000 homes for the American diplomatic staff in Australia. The DOE was recently given $500 million to continue their second round dump site search.

And as Senator Mitchell from Maine can tell you, the DOE's handling of the Nuclear Waste Policy Act of 1982 is nothing more than an unmitigated disaster; and yet, you give them $500 million and then, for some to say that they don't have the money to take care of the atomic veterans, I think that flies in the face of reason.

And if you want another reason, $600 toilet seats. I think the money is there, and I think it is a matter of priority. And atomic veterans read the newspapers, sir; and when they see all of these various appropriations and then they hear that there is nothing there for them and their health and their families, they wonder where the priorities of Congress really are.

Last, I would like to state that it has taken us 10 years to get where we are today. That is an awful long time. I would like to propose—and I think the time is ripe, given the mood of Congress—that it is time that all of us sit down together in a nonadversarial setting and get to know each other as individuals, as husbands, as fathers, as businessmen, or whatever, and come together and see whether it would be possible or not that we could arrive at the responsive legislation that would address our issues in toto, instead of having to wait another 10 years.

Many of us veterans feel that when we talk to people at the VA or other agencies of the Federal Government that we are being talked down to, that we have nothing to contribute, that we know nothing. And I think that is very, very wrong. A prime example of that is the VA panel on dioxin and radiation hazards, which is a joke. There is not one atomic veteran on that panel. I tried to get copies of all the minutes of the meetings; and as my testimony will indicate—my written statement—I received one set of minutes and I was told where the next meeting was going to be held and when and that I could come and attend if I wanted. But like many atomic veterans—and you don't see too many in this room today—we can't afford to come to Washington. The cost is just too prohibitive. So, in a sense, we are kind of locked out of these proceedings.

When I told them I couldn't attend, then I never heard another thing from those people in the way of additional minutes of those meetings. I think it is wrong to have a panel like that and not have an atomic veteran on it.

We also nominated a number of physicians and scientists whom we felt should also be included in that panel. None were named. And we were just totally left out of a proceeding that is going to affect our lives, and that is not right.

So, I think really, if we could stop the fingerpointing and if we could come together and sit down in a calm, deliberative situation, and with members of both committees of the Senate and the House, and see if there is not some way that we can resolve our differences so we can get back to getting on with our lives. Thank you.

Senator ROCKEFELLER. Thank you very much, Mr. Campbell. I think it is the purpose of this committee and all concerned to try and work out this problem, and I think we are going to be able to do that. Are there any other thoughts that any of you gentlemen would like to put into the record for this committee?

Mr. CAMPBELL. I have one more, sir, if I may?

Senator ROCKEFELLER. All right.

Mr. CAMPBELL. That is the Warner amendment. The members of my post remain firmly against the existence of this amendment. We cannot understand why we, as veterans, cannot enjoy the same constitutional guarantees as does any other member of our society; and we think the manner in which it was enacted and the fact that it swept into its jurisdiction suits which were already then in progress really flies in the face of ex post facto, law after the fact. And we urge the Congress to repeal this amendment at the very soonest date. Thank you.

Senator ROCKEFELLER. Thank you, and I agree with your sentiments.

[The prepared statement of Mr. Campbell appears on p. 261.]

Senator ROCKEFELLER. Mr. Faron, do you have any other comments, sir?

Mr. FARON. Yes, Senator. I welcome the comments of all the members here on the panel today because I believe that each of them from their perspective is telling a story that must be told. This morning on the CBS Morning News, I think there was a very interesting expose of the situation. It is very hard to imagine sitting 1,000 yards away from an atomic blast or half a mile away and watching that detonate and being told to turn your back and then turn around again. This legislation is long overdue. Our only thought is that we would prefer that this committee focus its attention on getting the benefits to the broadest number of atomic veterans that it possibly can as a priority because the time is passing very rapidly. Thank you very much.

Senator ROCKEFELLER. Thank you all very much, and we have all listened very carefully to what you have said—not just me personally by sitting here but all the members of the Veterans' Affairs Committee as result of the record established today. We are very grateful for your presence here and wish you all a safe journey home. Thank you very much.

The final panel—although we still have one panel member from the radiation panel who will testify when Senator Cranston returns—is the prisoner of war organization panel; and that is Dr. Charles Prigmore from Arlington, TX, Legislative Officer, Mr. Curtis Musten, National Commander, and Dr. Charles Stenger, Consultant on Legislative Affairs of the American Ex-Prisoners of War; and also Mr. Albert Bland, Director of the American Defenders of Bataan and Corregidor, Inc. and Mr. Paul Reuter, Adjutant.

Now, all of the gentlemen I mentioned may not be here, but if any of them are, I wish they would come forward.

Dr. Prigmore, would you like to begin, sir, for no reason other than you are first on my list?

Dr. PRIGMORE. I was planning to make some additional comments after those of my National Commander, Curtis Musten.

Senator ROCKEFELLER. All right. Then, let's start with the National Commander.

STATEMENT OF W. CURTIS MUSTEN, SR., NATIONAL COMMANDER, AMERICAN EX-PRISONERS OF WAR, ACCOMPANIED BY DR. CHARLES A. STENGER, CONSULTANT ON LEGISLATIVE AFFAIRS

Mr. MUSTEN. Mr. Chairman, thank you very much. I would wish to thank Senator Cranston and the distinguished members of the committee. The comments made by Senator Murkowski, Senator Graham, and Senator Cranston when this bill was introduced on June 16 eloquently expressed the need for this legislation, and to quote Senator Graham, "its compelling, practical merits."

We deeply appreciate the concerns that underlie the simple truth reflected in your remarks that many POWs suffering from three medical conditions proposed for presumptive status have yet to receive service connection, even 40 years after their return to civilian life. This situation exists for the reasons cited in your collective remarks—absence of adequate records, difficulty in detecting or attributing certain conditions to specific causes, and even the reluctance of POWs committed to live with multiple health problems during confinement to seek help from the VA at an earlier time.

We recognize as you do the sincere desire of the VA to adjudicate POW claims in a fair and equitable manner. The broad statements and guidelines formulated by the VA are excellent in intent and entirely consistent with the objectives of Congress. The problem has been and continues to be the practical difficulties of applying these guidelines to each individual POW claim. The results have been that, despite these commendable attempts, many deserving POWs with legitimate claims continue to be denied service connection. While perhaps understandably VA wishes to minimize this situation, it is nevertheless a very real one with unfortunate consequences for the POWs involved.

The POW Advisory Committee has repeatedly found this to be so as have our national service officers at the VA Regional Offices and the Board of Veterans' Appeals. Indeed, all of VA's statistical data continue to bear this out.

The evidence from newest research studies and other credible sources is very clear. The incidence of these three conditions—spastic colon, peptic ulcer, and peripheral neuropathy—is much higher in POWs than other combat veterans.

The rationale for adding them to the presumptuous list is entirely valid. The practical merits of S. 1365 are that it will enable many deserving POWs to receive this benefit who have been and would continue to be denied if the cause of the complex procedural difficulty involved in the direct adjudication process. Enacting this legislation will reduce or eliminate the deep frustration and bitterness that many POWs currently feel in seeking service connection and their long-standing conditions.

It would also reduce the present protracted and expensive adjudication and appeals process that is an unnecessary burden for many VA adjudicators and rating specialists, as well as for the POWs involved.

Mr. Chairman, I would like to speak to the dental that is not in your packet, and I would respectfully request that it be made part of the testimony.

Senator ROCKEFELLER. It will be so.

Mr. MUSTEN. Mr. Chairman and members of the committee, I would like to speak on one item that is not included in S. 1365. This is the dental, reducing the time from 6 months to 90 days. We are very much concerned with this deletion. You will remember that dental was a part of the 1986 legislation passed by the House and deleted in the final bill.

Hopefully, this dental can be added, at markup time or some other convenient time. Dental was recommended by the Advisory Committee and described as not being unreasonable by VA. One excerpt that I would like to read from some statements made by the VA in 1986, and then some in 1987.

In view of the bill's proposed amendment—and this is H.R. 864 and H.R. 4333—with the 1986 bills, in our view the bill's proposed amendment relating to dental treatment for former POWs has considerable merit. Under current law, comprehensive outpatient dental care is provided to those who were interned at least 6 months. We believe that the qualifying period for internment as now proposed, that is 90 days, is not unreasonable. In some circumstances of incarceration, dental, oral pathology could develop and could become irreparable in a period of 90 days. Granting full eligibility for full dental benefits to this group of former prisoners of war would bring the scope of dental benefits more in alignment with the existing medical benefits which are currently offered to this group of veterans.

This amendment would also help to simplify the eligibility determination process. All right, now, VA testimony 1987. The bill's proposed amendment relating to dental treatment for former prisoners of war has questionable merit. Under current law, comprehensive outpatient dental care is provided to those who were interned at least 6 months. We believe that the qualifying period of internment now proposed—that is 90 days—is not to be scientifically supported.

Although our dental professionals acknowledge such development is conceivable, we essentially believe no scientific case has been made for statutory change, nor has a mandate emerged from the POW Advisory Committee in favor of the amendment. I would like to read, if I may, Mr. Chairman, an excerpt from the March 1986 Advisory Committee minutes.

> Also, much is to be done in the arena of legislative relief so that, to the extent possible, this special population is indemnified against loss of deserved benefits. In this connection, we endorse the Veterans' Administration, the Congress, and the

provision of H.R. 4433 introduced by Messrs. Solomon, Montgomery, and Hammerschmidt. The committee also endorses S. 2168.

And these are the bills that contain the dental, that they are speaking to. So, it is endorsed; it has been endorsed by the Advisory Committee.

Mr. Chairman, we also have problems to some extent with the 10-year limitation in the ulcers; and we would like to see the dental reinstated; and we would like to eliminate the 10-year period in peptic ulcers.

Senator **Rockefeller**. Very good, Commander, and I am very grateful to you. Before we continue with further testimony, I want to interrupt so that Senator Kerry, who is sitting directly behind you, can come forward and give his testimony. Senator Kerry is a long-time and great champion of veterans—Vietnam-era veterans and all veterans. Senator Cranston mentioned in his opening statement the forthcoming introduction of Senator Kerry's Joint Resolution for scientific evidence reviews relating to Agent Orange exposure. There is not very much in the way of veterans' work and legislation that John Kerry isn't in the middle of.

Senator Kerry and I have worked together on a lot of things. He is well known throughout the country for service to his country. So, we are delighted that you are here, Senator Kerry, and we welcome your comments.

[The prepared statement of Mr. Musten and Dr. Stenger appears on p. 269.]

STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator **Kerry**. Thank you very much, Mr. Chairman. I appreciate those introductory comments, and I am glad to have the chance to testify before you. And I appreciate also all you have been doing for veterans in helping with a number of different proposals that we have worked together on, and I thank you for that.

Also, I would like to thank in absentia Chairman Cranston who responded to my request several months ago when I went to him and asked him if he would join with me in an effort regarding the Agent Orange issue. I think all of us know that there are questions out there about Agent Orange. There are things that we just don't know for certain; but what we do know is that there are—according to the Vietnam Veterans of America—over 1,000 separate studies about Agent Orange.

Yet, despite all the studies, there is a continuing delay by the Administration and by all agencies supposed to be dealing with this issue, and a clear unwillingness to move forward. I think the feeling among a lot of Vietnam veterans—particularly veterans who believe that they have diseases that are growing out of their exposure to Agent Orange—I think there is a belief that the issue is one where the Government is happier to wait until many of them die, either from natural causes or perhaps even from the diseases from which they are suffering, and that that may be the one way in which the Government will have this issue go away because out of these 1,000 studies, there has been zero—zero—effort by any responsible agency to try to draw those studies together in a way that would attempt to draw some reasonable conclusions.

Now, I don't know any veteran who is running around saying "I have absolutely got to be compensated, no matter what" or "I deserve the world; hand it to me on a platter" as a consequence of whatever potential disease he might have contracted. But I think people are asking for a fair shake, for a fair response, for some response, for a legitimate effort by people in medical know-how to call together those studies and begin to try to say "This is real; this isn't real; there is a preponderance of evidence here, there isn't here," and draw some conclusions that at least say to them "We are trying to deal with this problem in a responsible way."

And as I say, to date that is simply not the case. So, I am grateful to Senator Cranston, and I hope this committee will move. We will be introducing this effort this year. That is, we need to request the National Academy of Sciences to draw together those reports and to make a survey of the current state of the art of knowledge with respect to this issue nationally and internationally. And there is a great deal of research elsewhere, including in Vietnam, from which we could draw some conclusions, so that we can hopefully begin to deal with this problem before we force people to believe that this is going to be one of those last issues that the country is simply unwilling to deal with about Vietnam.

The Irish poet, William Butler Yeats, said: "Too long a sacrifice can make a stone of the heart." I think that for too many Vietnam veterans they have been very familiar with that feeling, if not the phrase itself. The national conflict of Vietnam has gained greater understanding in most people's eyes; I think everybody is now familiar with that long period of denial that we went through in this country when neither the sacrifices nor the service was really recognized as it should have been. Much has happened in the last years to try to deal with that, from the creation of the Vietnam Memorial here in this city to welcoming home efforts for Vietnam veterans to the outreach programs which you, Senator Rockefeller, and others have helped to keep alive.

But I think that the words of Admiral Elmo Zumwalt's son, Elmo Zumwalt III, can perhaps best describe the feeling of a lot of people. He wrote a book called "My Father, My Son"; and he has Hodgkins disease, and this is what he said. He served in swiftboats, as I did, and he was in many of the areas where I was; and I recognize his descriptions very, very well, and I quote him.

> I had seen Agent Orange defoliation nearly everywhere I patrolled, but from the air the extent of it was dramatic—trees were stripped of leaves, thick jungle growth was reduced to twigs, the ground was barren of grass. In the 11 months I was in Vietnam, I had often washed in the waters into which Agent Orange had drained and had eaten local produce which I suspect had been doused with the chemical.
>
> I remember developing a skin rash while in the Sea Float area. I have since learned that one of the effects of Agent Orange exposure is a skin rash; but at the time, I was thankful for the defoliation. It meant the enemy could not attack Sea Float without great cost to itself.

These are the words of Elmo Zumwalt III today, knowing that he is a victim of this disease and that his son, Russell, is the victim of a learning disability—both we believe caused by Agent Orange. He writes, and I quote:

> I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that Agent Orange is the cause of all the medical problems—nervous disorders, cancer, and skin problems—reported by Vietnam veterans or of their children's serious birth defects; but I am convinced that it is.

I agree, and I think thousands of Vietnam veterans agree, with Elmo Zumwalt. I am not here to criticize the choice of Agent Orange or its use; but I do think that it is time that we came to grips with this issue of compensation to the victims of exposure to Agent Orange. We need to do that as part of the healing process, and we need to do it—more importantly—as part of a process of fairness.

A number of States have undertaken studies on their own, and I am proud to say that Massachusetts has been one of those that has been leading the way in that effort. In January 1985, the Massachusetts Agent Orange Program published a report entitled "Mortality Among Vietnam Veterans in Massachusetts, 1972 to 1983." The report found that deaths due to stroke and connective tissue cancer were significantly higher among Vietnam veterans compared to both non-Vietnam veterans and to nonveteran males.

The increase in connective or soft-tissue cancer was the most alarming, because this extremely rare disease is so closely linked to dioxin exposure in all of the scientific literature. In June 1986, the Massachusetts Agent Orange Commission released the results of a survey that it conducted among Vietnam veterans in the State, each of whom believed that he had been exposed to Agent Orange during the time that they were in Vietnam by virtue of the duty they had and the location where they were.

These veterans reported a very high incidence of birth defects, nervous disorders, and other ailments. Other States, including New Jersey, Wisconsin, Iowa, Texas, and New York have also done surveys on studies of Agent Orange, and the results are similar to the results from Massachusetts.

The most recent evidence of the link between dioxins and soft-tissue sarcoma or lymphatic cancer is contained in a Kansas study conducted by Dr. Sheila Zahm and her colleagues; and it was published recently—in 1986—in the Journal of the American Medical Association in September. This study clearly shows that farmers and workers exposed to herbicides similar to Agent Orange face a much higher risk of lymphatic cancer than those who were not exposed.

So, wherever you look, the dioxin linkage is clear; and I can remember some studies that were done by a number of doctors in Vietnam as far back as 10 years ago of people—the Vietnamese—in the area that were sprayed which were showing the same kind of incidence of cancer.

Now, given this evidence, it is important—and Mr. Chairman, I will just take a moment—that we consider what the administration response has been. Unfortunately, it has really been, I think, to play politics with this issue.

Most of us are familiar with a study released last September by the Harvard School of Public Health and the Mount Sinai School of Medicine.

It was commissioned by the House Energy and Commerce Committee, and it stated that the Office of Management and Budget, and I quote, "has delayed, impeded, and thwarted Governmental research efforts designed to answer public demands for information on serious public health questions." They concluded, and I continue to quote, "Conditions imposed by OMB during its paperwork review of a proposed NIOSH study of New Jersey and Missouri dioxin workers have substantially delayed the initiation of this study, will substantially increase contracting costs by more than $270,000, and may even totally block the completion of this important study."

So, at a time, Mr. Chairman, when veterans are still waiting to receive any compensation for injuries and diseases caused by this exposure to Agent Orange, the foot-dragging by OMB is simply unacceptable. Meanwhile, VA regulations continue to hamper the process. The VA recognizes only chloracne, which is a severe form of acne, as potentially related to Agent Orange exposure. They continue to deny the existence of all other diseases as being linked to Agent Orange exposure, including soft-tissue cancers; and they continue to state the totally unreasonable requirement that, in order for any compensation to flow, the disease must have been contracted within 1 year of service in Vietnam.

Now, clearly, any kind of exposure to Agent Orange, no matter how serious, the development of those kinds of diseases—as we have proven in toxic waste situations or even in the nuclear veterans, as we are learning now about those who were exposed to testing—takes maybe 5, 10, 15, even 20 years for the cancer to develop.

And in the same way here, as a result of that lesson learned, and as a result of an obligation that we have to veterans, we should at the very least be seeking a legitimate answer. Again, I reiterate, Mr. Chairman, in closing that I don't hear veterans around this country saying "I am absolutely, positively entitled to *X* amount of dollars." I don't hear them banging down the wall in ways that one might think they would be, except to say, "Give us an answer. Show that you are genuinely interested in our welfare and in trying to find out whether or not there are in fact these linkages."

And there isn't any veteran who doesn't understand the difference between a bona fide effort by the U. S. Government to seek an answer and a stall. And what they are getting today is a stall or even worse.

So, Mr. Chairman, I hope that the committee will press immediately for the National Academy of Sciences to come forth with this study; and I hope it will review the VA procedures at this time; and I hope it will send a message that, while some agencies that are established to deal with veteran problems may find it difficult to carry out their mandate, those who are elected don't find that difficulty and will do so forthwith. Thank you very much, Mr. Chairman.

Senator ROCKEFELLER. Thank you very much, Senator Kerry. We are grateful for your being here, as I know you are grateful for this panel letting you join them.

Senator KERRY. I am indeed, and I thank you.

Senator ROCKEFELLER. Your words are always helpful.

Senator KERRY. Thank you, gentlemen, for allowing me to interrupt. I appreciate it.

Mr. MUSTEN. Thank you, Senator.

Senator ROCKEFELLER. Thank you, Senator Kerry. I also want to make note that Senator Simon has a statement which I will enter into the record with respect to the atomic veterans. He could not be here today.

Mr. Cooper Brown, I hope we are going to have a chance near the end to get to you, so don't fret. We still have more work to do.

Now, Commander Musten, you have spoken. Dr. Prigmore, you indicated you would like to add some comments?

[The prepared statement of Senator Kerry appears on p. 286.]

STATEMENT OF DR. CHARLES S. PRIGMORE, LEGISLATIVE OFFICER, AMERICAN EX-PRISONERS OF WAR

Dr. PRIGMORE. I have a couple of very brief comments. One of them has to do with the possible interpretations of the word "manifestation" in S. 1365. That term can potentially carry a meaning that could render this bill virtually meaningless as far as any help to former prisoners of war is concerned. Let me illustrate very quickly from my own experience.

I happen to be an ex-prisoner of war who currently has a 10-percent disability for spastic colon. That is one of the three presumptions we are talking about. I had just enough proof of medical nature of recurrence of spastic colon over the years that they have accepted it and gave me 10 percent. If the VA persists in its usual practice of wanting some kind of medical evidence as documentation of that term "manifestation," then we haven't gained a thing. In other words, I got it by having a little bit of medical evidence, without this legislation.

So, if we are going to have to produce some kind of medical evidence, this legislation is not going to be helpful, in spite of the fact that all of the introducers of the bill made the clear point that medical records frequently are not available. So, what I would like to respectfully suggest, Mr. Chairman, is that either the term be removed or some clarification be put in there to indicate that the POW's definition of his symptoms that he shows be accepted at face value without documented medical evidence.

A second thing I would like to address, also very briefly, is this business of dental care. I think there is no question in the mind of any former prisoner of war that it doesn't take very long to lose a tooth or half your teeth from a rifle butt or even to start getting caries or get aggravated abscessed teeth in less than 6 months. The present law, which predated Public Law 97-37, established 6 months as the cutoff point.

You must be a POW for 6 months to get dental care. We have a lot of people who were in the Battle of the Bulge who lost teeth, who had damaged gums, and who really require some dental care that are being forbidden under the present law to get any dental care at all. Now, most of those people can afford their own dentists, and I don't think we need to worry about them; but you have a few here and there who would benefit from dropping this to 90 days.

And I would respectfully again like to suggest that consideration be given to dropping that requirement as a part of this bill, from 6 months to 90 days.

And I might say the Congressional Budget Office has repeatedly said that the cost would be inconsequential or insignificant; so you are not talking about very much money here. Thank you, Mr. Chairman.

Senator ROCKEFELLER. Thank you, Dr. Prigmore.

[The prepared statement of Dr. Prigmore appears on p. 295.]

Senator ROCKEFELLER. Dr. Stenger, do you have anything you would like to add to that?

Dr. STENGER. Just one thing. I worked 40 years for the Veterans' Administration. I am very proud of the Agency, but I am concerned that it does not face the reality of some of its problems on dealing with VA POW benefits.

I know what it says; it says "We will do things very liberally." What I would like to take just one moment to do is to quote from their latest decision, which is dated June 17. I represented POWs for 6 years before the Board of Veterans' Appeals. Any case that comes to them has been denied by the veterans' benefits. This veteran had a number of conditions; the one I want to give you is the very simplest one, and I want you to listen to the language and ask if this sounds consistent with what the VA says. I am quoting now:

> The service medical records for separation are entirely negative for any history of finding of such injuries or scars. In the absence of any documentation, the Board is of the opinion that service-connected is not warranted by evidence of record. In reaching this decision, the Board has carefully considered the statements advanced by and on behalf of the veteran, particularly those statements pertaining to the nature and the circumstances of his capture and internment as a POW. The evidence nevertheless does not provide a sound, factual basis for awarding service-connected.

It sounds very fine. What was the evidence?

The man was shot down over Berlin. He was the only survivor in his aircraft. After he was captured—several days after he was captured—the pilot of another airplane that was also shot down was in the same room with him. He provided a statement that was descriptive, and he said this about the veteran: "I saw this man standing there. His head was bandaged. His head was bleeding. He was dazed. He was confused. He didn't know what he was doing." And he goes on and on to describe in great detail that this man did suffer, at least something that would create a scar.

Part of our concern is that there is evidence of brain damage, but this is just on the scar. The VA—what I read— rejected all of this, even though its policy says that the absence of definitive information in the record will not deny the veteran his claim if it is consistent with his service, with conditions under which he served.

At any rate, the Veterans' Administration further has never in the 40 years ever examined this man's head to see if he has a scar on it. The physician coordinator who gave the man the protocol examination himself said that he accepts the fact that there is a 3-inch scar, but the VA will not even service-connect this man for the scar, which would be zero percent, mind you.

If they won't do that on the basis of this kind of evidence, I can assure you that they will not do so on the basis of such things as ulcer—which he also had in here and I don't want to go into that—but they simply do not do what they say.

I want to make the point that there is nothing unusual about this case. This is an absolutely typical example, and I challenge the Veterans' Administration to show that this is not clear in this case or generally. That is all I have.

Senator ROCKEFELLER. Thank you, Dr. Stenger, very much. Mr. Bland, would you like to give your testimony, sir?

STATEMENT OF ALBERT J. BLAND, DIRECTOR, AMERICAN DEFENDERS OF BATAAN AND CORREGIDOR, INC., ACCOMPANIED BY PAUL REUTER, ADJUTANT

Mr. BLAND. Yes, sir. Thank you very much, Mr. Chairman. Mr. Chairman and fellow members of the Senate Committee on Veterans' Affairs, the American Defenders of Bataan and Corregidor, Inc. appreciate the opportunity afforded them to testify on behalf of S. 1365, a bill which would amend title 38 of the United States Code to improve veterans' benefits for former prisoners of war.

We are extremely grateful also that in the last several years Congress has directed its attention to the plight of the former prisoners of war and have passed legislation that has helped them in their health and compensation needs.

I also want to thank the committee for their efforts in promoting and passing a bill which recognizes Former Prisoners of War Day. Mr. Chairman, I recently attended a convention of the American Defenders of Bataan and Corregidor at Phoenix, Arizona. There were approximately 600 members in attendance at this convention. The physical condition of these former prisoners of war attending this affair was a sad sight indeed.

They came in wheelchairs, others crippled up and limping along with assistance of their spouses, while others carried oxygen in bottles to assist their breathing problems.

We even had two members die while attending this convention gathering. They came with great effort to be with their fellow comrades who so gallantly defended American interests at the outbreak of World War II in the Philippine Islands and later suffered brutal treatment and starvation at the hands of the enemy as prisoners of war for 3½ years.

These former prisoners of war have suffered from residual disabilities and diseases emanating from their prisoner of war experiences. Time and time again, they have tried to get their disabilities recognized by the Veterans' Administration with only limited success. It isn't that the Veterans' Administration is not aware of the problems relating to former prisoners of war, inasmuch as a report to the House Committee on Veterans' Affairs, as early as 1948, by the Administrator of Veterans' Affairs stated:

> The near starvation diet to which American prisoners of war were subject in certain enemy prisoner of war camps impaired their organs and caused nervous disorders. In many cases, the effects, such as malnutrition, would escape detection in such disorders as beriberi and pellagro. In other cases the effects of malnutrition do not show up until long after the prisoners of war have been released from confinement.

Again, at this time, I would like to commend Senator McCain for his words on deletion of that 10-year period and the insertion of the 90 days for prisoners of war for dental care. This 90 days does not, more or less, affect the fellows from Bataan and Corregidor, but it does affect a great deal of men that were in the Battle of the Bulge. These are the men who more or less have been excluded from this dental care. The majority of them were never in prison camps; all they were was on marches through Germany.

There have been many worldwide studies made of the problems relating to residue and latent effects of prolonged malnutrition of former prisoners of war. These studies and publications of former prisoners of war physical and mental problems show that they manifest a significantly higher amount of particular types of diseases upon repatriation which were related to malnutrition, torture, climatic exposure, and other deprivations of internment.

Epidemiologic followup studies of former prisoners of war indicate the residues of these types of disabilities have persisted until the present time. Accordingly, for significantly higher post-repatriation mortality rates among former prisoners of war relative to other veterans and control groups. And here again, we feel like we have just about been studied to death; and as a matter of fact, by the time the National Academy of Sciences gets through with their studies, the majority of us will be dead.

Of most recent nature, I would like to quote from the Veterans' Administration Physician's Guide for Evaluation and Examination, under the date of March 1, 1985:

> Studies in this country and abroad have shown that the physical deprivations and psychological stress endured as a captive have lifelong effects on subsequent health and social and vocational adjustment. Specific residues are known to be induced by prior malnutrition. Former prisoners of war have significantly higher incidence of rates for illness in many body systems longer than hospital stays.

Mr. Chairman, recognizing the residues and latent disabilities by the Veterans' Administration as service-connected is a serious problem with all prisoners of war. We want these problems recognized by the Veterans' Administration. Time is of the essence. Our average age is over 65, and we believe that the cost to the Government will not be that great. We implore you to take affirmative action on this bill to assist these former prisoners of war who so gallantly defended our country in World War II, Korea, Vietnam, and in some incidences like on the *Pueblo*. Thank you again for giving us the opportunity to express our views on this great and important piece of legislation. Thank you very much.

Senator ROCKEFELLER. Thank you, Mr. Bland. Mr. Reuter, do you have any comments that you would like to add?

Mr. REUTER. In going over some of the comments in the Congressional Record that accompanied the introduction of S. 1365, I noticed that quite a few references to the National Academy of Sciences surveys are made. We feel, the American Defenders of Bataan and Corregidor and all of the POW groups, that any further studies delaying any of the processes would be a detriment to us.

That is all I have. Thank you.

Senator ROCKEFELLER. Thank you very much, Mr. Reuter.

[The prepared statement of Mr. Bland and Mr. Reuter appears on p. 298.]

Senator ROCKEFELLER. Gentlemen, Let me say to all of you that I am very grateful. We appreciate your support of S. 1365, and obviously, we are going to pay very careful attention to all of the testimony that each of you has given.

And I wanted to say that, when the conditions were drafted, they were based upon recommendations requested by this committee from scientific experts on and off the Advisory Committee of former POWs. I want to make a comment also that Senator Graham regrets very much that he has to be at a markup—which is when you actually vote for or against a bill—in another committee. And Senator Mitchell, who was chairing just before me here, had to go and chair an Environmental Committee meeting; so, he is sorry that he couldn't be here.

Senator Graham, as you all know, is the principal author of S. 1365 and has a great interest in all matters that affect veterans, as does Senator Mitchell. So, I want to thank each of you gentlemen for your contribution. We are grateful, and we have learned from you; you are excused as a panel.

Now, I have been waiting, Pat Broudy, for our chairman, Senator Cranston; but I think he is still at the White House, where he is in an important meeting there. I want you, therefore, to come forward because there will be a vote very shortly; and Senator Cranston will probably have to go directly to the Senate floor. Yes, also, Cooper Brown, I want you to come forward.

Senator Cranston, in his opening statement, said the following:

> I want to say a word to Pat Broudy before I leave. Pat is an old friend and comrade in arms on the radiation front. She has appeared before this committee here and in California several times before and is a great champion of justice for radiation exposed veterans and their families.

Then, he went on to say:

> Pat, I want to try to make sure I hear your testimony, so I am going to ask that your appearance be delayed until I have returned from the White House. I will try very hard to get back here, Pat.

Now, those were his words; but when you are at the White House, things don't always work out exactly the way you want. So, he is not here and, rather than delay you out of the hearing, I know that Senator Cranston would want me to go ahead.

So, I am very grateful to you, Pat, for being here and to you, Cooper, and to you other gentlemen who I will assume—and we have Mr. Burke and Mr. Rowe. Could you give your full names and associations for the record, please?

Mr. Rowe. I am with NARS. My name is Bill Rowe, and I am from Cleveland, OH. I was at Hiroshima with the first occupation forces there.

Senator Rockefeller. Very well. Pat Broudy, please?

Ms. Broudy. Could I stand up?

Senator Rockefeller. If you prefer.

STATEMENT OF PAT BROUDY, LITIGATION DIRECTOR, NATIONAL ASSOCIATION OF RADIATION SURVIVORS

Ms. Broudy. I have a lot to say, but obviously, time is of the essence. So, I will try to keep this as brief as possible. First, I want to thank Senator Cranston and the rest of you gentlemen and ladies for giving us this opportunity and for expressing your interest in our problems by introducing these bills.

It has been 10 years that I have been working on this matter, and I feel that after 10 years we have finally accomplished an awful lot. The first hearing that I had before Senator Cranston's committee was in 1979. Not an awful lot has happened since that time as far as legislation is concerned. We have had to resort to the courts, as you well know, to try to get relief.

We have had less than 1 percent of our veterans compensated by the Veterans' Administration for their illnesses. Had we had satisfaction from the Veterans' Administration, there would not have been the necessity to resort to the courts. This has been a bone of contention, I know, here in Washington, the *NARS* v. *Turnage* lawsuit, the $10 fee.

We have not had the opportunity that all the other citizens of this country have had, and that is a trial by jury.

In addition to that, we cannot pay an attorney to represent us if we pay him more than $10 before the VA. We have the Feres Doctrine that precludes us from suing the Government. So, in other words, the veteran is a second-class citizen and we do not have any rights.

We are trying to correct that by litigation. We just got shot down in the Ninth Circuit Court of Appeals; 34 of our cases were dismissed. The LSD victim that was given LSD as an experiment and then he went a little out in left field sued the Government. He wound up in the Supreme Court; his case was dismissed.

There has not been one lawsuit that has been won by a veteran. I want to take this opportunity to say that the Government has settled out of court with several of the *Challenger* crew, $750,000 each. They have settled out of court with the Three Mile Islanders who were exposed to radiation. They haven't done a thing for the radiation veteran.

That is off the cuff. Now, I am going to go back to my prepared statement.

Senator ROCKEFELLER. All right, Pat. We are about to have a vote; so that everybody will have a chance to speak, I hope you will keep your statement brief.

Ms. BROUDY. It is brief, very brief. Yes.

Senator ROCKEFELLER. Yes, thank you.

Ms. BROUDY. These bills that have been introduced would compensate certain veterans for certain diseases and provide DIC for certain widows whose husbands died of certain diseases.

There are approximately 1,600 claims that have been filed with the Veterans' Administration, and less than 1 percent of those have been granted. So, what I am trying to say is that 1,600 claims, if each of those diseases—not just percentages of diseases—but each disease in each category in each bill were compensated, each radiation-related disease it would cost the Government far, far less than these protracted hearings, than the 80,000 studies that have been done, the 10 years of litigation expense; what the Veterans' Administration is going through now in the *NARS* v. *Turnage* lawsuit. Give us what we have got coming—a few bucks a month for these dying men and their old widows who are getting so old and frail that they don't even have the will to fight any more.

It is not going to cost that much. It would have been an awful lot cheaper to compensate us in the first place.

I have digressed from my prepared statement, but I think I have gotten my point across. I would like to leave some time for the other gentlemen here.

Senator ROCKEFELLER. Thank you very much, Pat Broudy.

Mr. Burke.

[The prepared statement of Ms. Broudy appears on p. 322.]

STATEMENT OF JOHN BURKE, PRESIDENT, NATIONAL ASSOCIATION OF RADIATION SURVIVORS, AND DIRECTOR, COLORADO ATOMIC AND AGENT ORANGE VETERANS COALITION, ACCOMPANIED BY BILL ROWE, VICE PRESIDENT

Mr. BURKE. Thank you, Mr. Chairman and members of the committee. I realize we don't have much time so I will make this very brief. I am John Burke. I am President of the National Association of Radiation Survivors and Director of the Colorado Atomic and Agent Orange Veterans' Coalition.

I have some testimony here that has not been put into the record yet that I just submitted to the secretary, and I would like to include it in the testimony that is being presented to the committee.

Senator ROCKEFELLER. It will be done.

Mr. BURKE. Thank you, sir. I will just hit briefly on it. There is one thing here. I have a document included in this dated October 30, 1943, that shows—from the Manhattan Project—that the Government at that time had a reasonable degree of certainty of the medical effects of ionizing radiation, which includes not only cancer and leukemia but secondary infections and genetic damage and things possibly like hyperthyroidism and diabetes.

There is also another statement in here about the worry at the time of Operation Crossroads in 1946 about the genetic implications to the persons's second generation; and most importantly, a document we have just come across out of the Jimmy Carter Presidency in the Carter Library dated January 31, 1978. I am going to read you one brief sentence here, and then I am going to stop.

> The White House, Washington, DC. I have become increasingly concerned about the handling of this matter by DOD and the Department of Energy. There are clearly limits limiting your cooperation or the effects to conduct the studies. At first, I thought this was simply out of embarrassment at having to explain why in the world they ever approved setting off an atomic test with troops in the area. Later, it became clear that they were also concerned that the study by the Centers for Disease Control might lead to new evidence about the effects of low levels of radiation exposure that could upset current standards and impact on military and civilian atomic energy programs.
>
> Last week, my suspicions hit a peak when the Army major working on this project refused to state in an open hearing what his usual duties were.

Thank you, sir. And I would like to introduce Mr. Bill Rowe, who is a Hiroshima veteran, and in your very limited time, if you wouldn't mind listening to him? Thank you.

Senator ROCKEFELLER. Would you please submit to the committee the document that you just read from so that we can identify it?

Mr. BURKE. Yes, sir. I have given it to the secretary, but I will give you another copy of it.

[The prepared statement of Mr. Burke and the document appears on p. 327.]

Senator ROCKEFELLER. All right. Mr. Rowe.

Mr. ROWE. Yes, thank you. Mr. Chairman, thank you for giving me this chance to speak. Mostly my complaint is about the VA hospitals and about the way the VA loses records and destroys records, and they keep these appeals going on for years and years and years. With the law that they put up against the veterans, when they do apply for hospitalization or pensions, they put them through a rigamarole.

Also, just last year, a man was refused treatment for radiation at Bikini Atoll. So, he went up the same night and killed two of the security guards. These are things that are going on in the VA hospital.

There was a congressional hearing on AIDS in Cleveland with Senators Glenn, Metzenbaum, Congresswoman Oakar and all of them. I have reached the point where I see the VA tells the Senators and the Congressmen what to do, and they want amendments to laws that you pass

I just want to know if they are going to continue the stuff that is going on right now, like granting less than 1 percent of a bill you passed. And you guys keep on changing the requirements in the book. If we pass it at 15 diseases, you change it to 10 diseases; and when the VA gets it, it goes down to three diseases. So, who is controlling this—the Senate, the Congress, or the VA?

Also, I could tell you that I was down in Beckley, West Virginia a few years ago. I was with Congressman Nahal down there; I was speaking for NAV at the time, and I heard a lot of complaints about Huntington Hospital up there.

So, maybe you heard about me from Mr. Holmes? I believe he is a friend of yours?

I would like to get my constitutional rights back so I could sue the atomic bombmaker. Please give our constitutional rights back to us that you took away from us.

Senator ROCKEFELLER. Thank you, Mr. Rowe. I sincerely appreciate the points you make and will not forget them. Cooper Brown.

STATEMENT OF E. COOPER BROWN, LEGISLATIVE COUNSEL, INTERNATIONAL ALLIANCE OF ATOMIC VETERANS

Mr. BROWN. Senator, I appreciate being called up again. I apologize for not being here earlier. Unfortunately, I had to be in two places at the same time earlier this morning. You probably know that feeling yourself.

In any event, what I would like to do—given that Mr. Gates has already testified—is jump over most of the testimony I was going to submit on behalf of the International Alliance.

[The prepared statement of Mr. Brown appears on p. 341.]

Mr. BROWN. What I would like to do is take my time to—if you will—step out of the woods, so to speak, in order to get a better look at the trees. In so doing, I hope to suggest where we all may have gone somewhat astray on the atomic veteran issue and to suggest where we well may want to focus our collective energies, once the current legislative proposals are behind us.

Where I believe we have gone astray on this particular issue is in allowing the atomic veteran issue to be viewed almost exclusively as a low-level radiation exposure problem. This has, among other things, resulted in VA claims of acknowledged high-level exposure being denied because the VA apparently felt it had no legislative authority for service connecting noncancerous but radiogenic disorders. Indeed, in one case—that of an atomic veteran by the name of Gene Curbow—his claim was dismissed notwithstanding support for his claim from the VA's own medical experts.

And what I would like to do is submit a copy of that medical report to the VA and for the record.

Senator ROCKEFELLER. It will be placed in the record.

[The medical report appears on p. 345.]

Mr. BROWN. It is certainly easy to understand how all of us, including myself, came to the conclusion that atomic veterans were exposed to only low levels of radiation. The DNA has told us that only 5 percent of all atomic veterans who were exposed to 5 rems or more of radiation; and indeed, it was not until the report to Senator Cranston of November 1985 that we learned for the first time that the 45,000 servicemen at Operation Crossroads in 1946 had film badges that could only record up to 2 rems of exposure. Anything above that and the film badges simply didn't work.

Yet throughout all of these years, and certainly the 6 years that I have been involved in this issue, we have continuously overlooked one of the most important shreds of evidence suggesting that a sizable number of veterans may well have been exposed to much higher levels of radiation. I am here referring to the innumerable personal counts spontaneously offered and generally without having previously to other atomic veterans who have also testified to this same phenomenon, and that is that, at the time of the test, having seen the bones in their hands at the time of the blast or experienced metallic taste in their mouths shortly after the blast. And many, shortly after their test participation, experienced a loosening or loss of teeth, skin rashes or burns, vomiting, diarrhea, loss of hair that later grew back in, depression, and later genetic problems in their children.

Now, for the last 2 or 3 years, I have been active in court representing about 3,000 Marshall Islanders who were exposed to radiation from the fallout from those tests.

And one thing that struck me is that many of these same symptoms and experiences have been evidenced by the Marshallese immediately following their removal, in particular from one atoll—that of Rongelap in 1954, following the Bravo Test.

These symptoms were experienced by people exposed by the Government's own admission to an average dose of 175 rems from that test fallout. Thus, I believe that the veterans' personal accounts of their experiences during and immediately following their participation in the testing program should no longer be categorically dismissed as merely anecdotal, but that they should be taken seriously and that we should act accordingly.

What you might rightfully ask is what should we do? Giving the veterans the benefit of the doubt, as the legislation now before us would do. The International Alliance believes that we should begin to focus on the possibility of high-level radiation exposure in a scientific manner. This can be done in a number of ways, but we would recommend one in particular.

In April of this year, Science Magazine reported that scientists have discovered among Japanese atomic bomb survivors a direct linear relationship between the dose of radiation exposure and a very particular genetic aberration found in the blood. In other words, as the result of a particular and only recently developed chromosome test, one apparently now can clinically determine whether someone has been exposed to radiation; and by counting the number and extent of a particular type of chromosome aberration, determine the dose of radiation to which the individual was exposed.

Thus, we would strongly urge this committee—and I will submit this Science Magazine for the record——

Senator ROCKEFELLER. It will be placed in the record.

[The Science Magazine article appears on p. 347.]

Mr. BROWN. Thus, we would strongly urge this committee on whatever legislation that it finally adopts this year to add an appropriate amendment authorizing systematic chromosome tests in whatever form would be appropriate as one method of determining whether and to what extent atomic veterans were exposed to the levels of radiation to which the Marshallese and certain other radiation victims have been exposed.

Senator ROCKEFELLER. Mr. Brown, may I ask you if your organization supports either of the bills before us or both of them, S. 1002 or S. 453?

Mr. BROWN. The International Alliance supports S. 1002.

Senator ROCKEFELLER. Very good.

Mr. BROWN. In saying that, we would also like to express our appreciation to Senator Murkowski for taking the lead on the issue of presumptions. For that, we are deeply grateful.

Senator ROCKEFELLER. Very good. I am going to have to bring this hearing to a conclusion now. I don't mean to appear to be hurrying, but I have to. All of this testimony will be made part of the record, and everyone who has spoken here this morning will not only be in the record but will be remembered by the members of this committee as we approach the drafting of this legislation.

I am very grateful to each of you for taking the time. Most of you have been here before; others of you have not. We are grateful to all of you.

This hearing now stands adjourned.

[Whereupon, at 11:17 a.m., the hearing was concluded.]

APPENDIX

II

100TH CONGRESS
1ST SESSION

S. 9

To amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. CRANSTON (for himself, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr GRAHAM, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) This Act may be cited as the "Service-Disabled Veterans' Benefits Improvement Act of 1987".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United State Code.

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Administrator of Veterans' Affairs shall, as provided in paragraph (2), increase, effective December 1, 1987, the rates of and limitations on Veterans' Administration disability compensation and dependency and indemnity compensation.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by amendments made by title I of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99–238), the Administrator shall further increase such rates and limitations, as in effect on November 30, 1987, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1987, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Administrator may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1988, the Administrator shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 3. SPECIALLY ADAPTED HOUSING ASSISTANCE.

(a) INCREASE IN MAXIMUM GRANTS.—Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$40,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,775".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987.

SEC. 4. SERVICE-CONNECTED DEATH BENEFITS.

(a) INCREASE IN MAXIMUM BURIAL AND FUNERAL EXPENSES AWARD.—Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$2,250".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1987.

SEC. 5. TOLLING EDUCATIONAL AND REHABILITATION ASSISTANCE DELIMITING PERIODS BY REASON OF INCAPACITY DUE TO DRUG OR ALCOHOL CONDITIONS.

(a) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ALL-VOLUNTEER FORCE.—Section 1431(d) is amended—

(1) by inserting "(1)" before "In";

(2) by inserting at the end the following new paragraph:

"(2)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of an eligible individual in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such individual has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, an eligible individual's application for and extension of the ten year period for use of entitlement under this chapter because of such a condition may be granted if such individual files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) The period of time during which, based on the existence of such a condition, such ten-year period does not run shall not exceed the lesser of—

"(I) the period during which the eligible individual was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such individual demonstrates, to the satisfaction of the Administrator, that such individual was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the ten-year period with respect to such individual will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the fourth year of the extension.".

(b) PROGRAMS OF REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Section 1503(b) (1) is amended—

(1) by inserting "(A)" before "In";

(2) by inserting "(other than a condition described in subparagraph (B) (ii) of this paragraph)" after "medical condition" in subparagraph (A), as so redesignated; and

(3) by inserting at the end the following new subparagraph:

"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines, under regulations which the Administrator shall prescribe, that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for the veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that the veteran was so prevented from participating in such a program.

"(ii) A condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) the veteran has received recognized treatment or has participated in a program of rehabilitation for the condition, and

"(II) the condition is sufficiently under control to enable the veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph not later than one year after whichever of the following last occurs:

"(I) The last date of the period of eligibility otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register.

"(v) The period of time during which, pursuant to clause (i) of this subparagraph, the twelve-year period of eligibility does not run shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for a condition described in clause (ii) of this subparagraph plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, or

"(II) four years.

"(vi) When pursuant to clause (i) of this subparagraph a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on whichever of the following first occurs—

"(I) the first day, following such condition becoming sufficiently under control to enable the veteran to participate in such program of vocational rehabilitation, on which it is reasonably feasible, in accordance with under such regulations, for the veteran to participate in such a program, or

"(II) the day after the period of eligibility has not run, pursuant to such clause, for a period of time equalling four years.".

(c) EDUCATIONAL ASSISTANCE FOR POST-VIETNAM ERA VETERANS.—Section 1632(a) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B) of this subsection)" after "length of time";

(2) in paragraph (3) by inserting "because of such disability," after "subsection"; and

(3) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date of which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable to veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

(d) EDUCATION ASSISTANCE FOR VIETNAM-ERA VETERANS.—Section 1662(a) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and

(B) in the second sentence, by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs—

"(I) the first day, following such condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

"(e) EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.—Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct";

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such a condition if such person files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the eligible person was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by the condition from initiating or completing such program of education, or

"(II) four years.

"(iii) When such an extension is granted, the delimiting period with respect to such person will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

SEC. 6. HOME-LOAN GUARANTY PROGRAM.

(a)(1) INCREASE IN MAXIMUM GUARANTY.—Section 1810(c) is amended by striking out "$27,500" and inserting in lieu thereof "$36,000".

(2) Section 1811(d)(2)(A) is amended by striking out "$27,500" both places it appears and inserting in lieu thereof "$36,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987.

SEC. 7. AUTOMOBILE ASSISTANCE ALLOWANCE.

(a) INCREASE IN MAXIMUM ALLOWANCE.—Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof $5,530".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1987.

SEC. 8. EXEMPTION OF CERTAIN PROGRAMS FROM SEQUESTRATION.

(a) IN GENERAL.—Section 113 is amended—

(1) in subsection (a)—

(A) in clauses (4) and (5) by striking out "(but only with respect to fiscal year 1987)" each place it appears; and

(B) by adding at the end the following new clause:

"(6) Benefits under chapter 37 of this title, relating to housing and small business loans for certain veterans and for the spouses and surviving spouses of certain veterans.";

(2) by striking out subsection (e); and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(b) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to a sequestration ordered, or a sequestration law enacted, for a fiscal year after fiscal year 1986.

(2)(A) Notwithstanding subsection (b) of section 601 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99–576), clause (2) of subsection (b) of section 113 of title 38, United States Code, as added by subsection (a) of section 601 of such Act, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for a fiscal year after fiscal year 1985.

(B) The Secretary of the Treasury shall take such action as is necessary to implement subparagraph (A) and shall, not later than 60 days after the date of the enactment of this Act, report to the appropriate Committees of the Congress on the actions taken by the Secretary pursuant to this paragraph.

100TH CONGRESS
1ST SESSION

S. 453

II

To amend title 38, United States Code, and the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to improve the standards for determining whether a radiation-related disease is service-connected, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1987

Mr. MURKOWSKI (for himself, Mr. DOMENICI, Mr. WARNER, and Mr. DIXON) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, and the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to improve the standards for determining whether a radiation-related disease is service-connected, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES.

(a) This Act may be cited as the "Veterans' Ionizing Radiation Compensation Improvements Act of 1987".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. PRESUMPTIONS RELATING TO CERTAIN DISEASES.

(a) WARTIME DISABILITY COMPENSATION.—(1) Section 312 is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of sections 310 and 321 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who, while serving on active duty during a period of war, was exposed to ionizing radiation as a result of the veteran's participation in any activity described in paragraph (2) of this subsection at the site of that activity—

"(A) all forms of leukemia, except chronic lymphatic leukemia, becoming manifest within 30 years after the last date on which the veteran participated in that activity;

"(B) liver cancer becoming manifest 5 or more years after the last date on which the veteran participated in that activity; and

"(C) multiple myeloma or cancer of the bone marrow becoming manifest 5 or more years after the last date on which the veteran participated in that activity;

shall be considered to have been incurred in or aggravated by the veteran's participation in that activity notwithstanding that there is no record of evidence of that disease during the period of active duty.

"(2) The activities referred to in paragraph (1) of this subsection are—

"(A) the atmospheric detonation of a nuclear device; and

"(B) the American occupation of Hiroshima and Nagasaki, Japan, prior to July 1, 1946.".

(b) WARTIME DEATH COMPENSATION.—Subchapter III of chapter 11 is amended by adding at the end thereof the following new section:

"§ 323. Presumption relating to certain diseases

"For the purposes of section 321 of this title, section 312(c) of this title shall apply in the case of a claim for compensation under this subchapter.".

(c) PEACETIME DISABILITY COMPENSATION.—Section 333 is amended by adding at the end the following new subsection:

"(d) For the purposes of sections 331 and 341 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who, while serving on active duty, was exposed to ionizing radiation as a result of the veteran's participation in the atmospheric detonation of a nuclear device at the site of the detonation of the nuclear device—

"(1) all forms of leukemia, except chronic lymphatic leukemia, becoming manifest within 30 years after the last date on which the veteran participated in that activity;

"(2) liver cancer becoming manifest 5 or more years after the last date on which the veteran participated in that activity; and

"(3) multiple myeloma or cancer of the bone marrow becoming manifest 5 or more years after the last date on which the veteran participated in that activity;

shall be considered to have been incurred in or aggravated by the veteran's participation in that activity notwithstanding that there is no record of evidence of that disease during the period of active duty.".

(d) PEACETIME DEATH COMPENSATION.—Subchapter V of chapter 11 is amended by adding at the end thereof the following new section:

"§ 343. Presumption relating to certain diseases

"For the purposes of section 341 of this title, section 333(d) of this title shall apply in the case of a claim for compensation under this subchapter.".

(e) CONFORMING AMENDMENTS.—(1) Section 313 is amended by inserting "or 333(d)" after "section 312" each place it appears.

(2) The table of sections at the beginning of chapter 11 is amended—

(A) by inserting after the item relating to section 322 the following new item:

"323. Presumption relating to certain diseases.";

and

(B) by inserting after the item relating to section 342 the following new item:

"343. Presumption relating to certain diseases.".

SEC. 3. DETERMINATIONS OF DOSE RESULTING FROM EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (98 Stat. 2725; 38 U.S.C. 354) is amended by adding at the end the following new section:

"TREATMENT OF RADIATION DOSE ESTIMATES

"SEC. 10. (a) For the purpose of adjudicating a claim for benefits under chapter 11 or 13 of title 38, United States Code, submitted by a veteran described in subsection (b), or a survivor of that veteran, on the basis of exposure to ionizing radiation, the Veterans' Administration shall deem the radiation dose estimate transmitted in the case of that veteran by the Director of the Defense Nuclear Agency (or any other appropriate office of the Department of Defense) to the Veterans' Administration under this Act to be two times the estimated dose.

"(b)(1) A veteran referred to in subsection (a) is any veteran who, while serving on active duty, was exposed to ionizing radiation as a result of the veteran's participation in any activity described in paragraph (2) at the site of that activity

"(2) The activities referred to in paragraph (1) of this subsection are—

"(A) the atmospheric detonation of a nuclear device; and

"(B) the American occupation of Hiroshima and Nagasaki, Japan, prior to July 1, 1946.".

SEC. 4. APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), no benefits shall accrue by reason of the amendments made by sections 2 and 3 for any period before the date of the enactment of this Act.

(b) EXCEPTION FOR EXISTING CLAIMS.—In the case of a claim for benefits under chapter 11 or 13 of title 38, United States Code, filed with the Veterans' Administration before the date of the enactment of this Act and adjudicated on or after that date—

(1) if a disease is determined to be service-connected on the basis of—

(A) a presumption prescribed in the amendment made by subsection (a), (b), (c), or (d) of section 2; or

(B) the radiation dose considered by the Veterans' Administration after the application of the amendment made by section 3,

the Veterans' Administration shall also determine whether the disease would have been determined to be service-connected without regard to that amendment; and

(2) if the Veterans' Administration determines that the disease would have been determined to be service-connected without regard to that amendment, the benefits under that chapter shall accrue in accordance with the effective date of the award of the benefits as determined under the applicable provision of section 3010 of such title.

II

100TH CONGRESS
1ST SESSION

S. 917

To amend title 38, United States Code, to authorize a headstone allowance for prepurchased grave markers and to modify eligibility requirements for the plot allowance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 3 (legislative day, MARCH 30), 1987

Mr. CRANSTON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize a headstone allowance for prepurchased grave markers and to modify eligibility requirements for the plot allowance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d) of section 906 of title 38, United States Code, is amended by inserting after "by or on behalf of such person" a comma and "or, in cases where the veteran has prepaid the cost of the veteran's own headstone or marker, by the veteran,".

SEC. 2. Subsection (b) of section 903 of title 38, United States Code, is amended by—

(1) striking out the comma after "such subsection" and inserting in lieu thereof "or"; and

(2) striking out after "line of duty" the comma and "or who is a veteran of any war".

SEC. 3. Subsection (b) of section 1008 of title 38, United States Code, is amended—

(1) by striking out clause (1); and

(2) by redesignating clauses (2), (3), and (4) as clauses (1), (2), and (3), respectively.

SEC. 4. Notwithstanding subsection 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the case of land transferred to the Department of Memorial Affairs from the Department of Medicine and Surgery for expansion of the national cemetery at Wood, Wisconsin.

SEC. 5. The amendments made by sections 1 and 2 of this Act shall take effect with respect to deaths occurring after September 30, 1987. Sections 3 and 4 of this Act shall take effect on the date of enactment of this Act.

II

100TH CONGRESS
1ST SESSION

S. 919

To amend title 38, United States Code, to authorize the Administrator to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress.

IN THE SENATE OF THE UNITED STATES

APRIL 3 (legislative day, MARCH 30), 1987

Mr. CRANSTON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Administrator to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 24 of title 38, United States Code, is amended by—

(a) adding at the end thereof the following new section:

“§ 1009. Contributions to local authorities

“The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a national cemetery if considered necessary for safe ingress or egress;” and

(b) inserting at the end of the table of sections at the beginning of such chapter—

“1009. Contributions to local authorities.”.

SEC. 2. This Act shall become effective on the date of enactment.

J

II

100th CONGRESS
1st Session

S. 940

To amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes.

IN THE SENATE OF THE UNITED STATES

April 7 (legislative day, March 30), 1987

Mr. Cranston (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND REFERENCES

Section 1. (a) This Act may be cited as the "Veterans' Compensation and Benefits Improvement Act of 1987".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. Section 3112 is amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection:

"(c)(1) Effective December 1 of each year, each rate of disability compensation under sections 314 and 315, dependency and indemnity compensation under sections 411, 413, and 414, and the clothing allowance under section 362 shall be increased by the percent change in the price index for the base quarter of such year over the price index for the base quarter of the immediately preceding year, adjusted to the nearest 1/10 of 1 percent.

"(2) For the purpose of this section—

"(A) 'price index' means the Consumer Price Index published monthly by the Bureau of Labor Statistics;

"(B) the term 'base quarter,' as used with respect to a year, means the calendar quarter ending on September 30 of such year; and

"(C) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.".

SEC. 102. The redesignated subsection (d) of section 3112 is amended by redesignating paragraph (2) as paragraph (3) and inserting the following new paragraph:

"(2) Whenever disability compensation, dependency and indemnity compensation, and clothing allowance rates are increased under subsection (c) of this section, the Administrator shall publish such new rates in the Federal Register as soon as practicable.".

SEC. 103. The Administrator may, consistent with the increases authorized by this title, administratively adjust the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85-857 who are not in receipt of compensation payable under chapter 11 of title 38, United States Code. Notice of any adjustments made under this section will be published in accordance with section 102, above.

TITLE II—ADOPTED CHILD AND INCOME EXCLUSION AMENDMENTS

ADOPTION UNDER FOREIGN LAW

SEC. 201. Section 101(4)(B) is amended by—

(1) striking out "and" at the end of subclause (i)(III);

(2) inserting after subclause (i)(IV) the following new subclause:

"(i)(V) prior to the time of adoption, was orphaned by the death of both parents, or was properly committed to and recommended for the adoption by a government-operated child-welfare agency or a duly-licensed child-placement agency; and"

(3) striking out the period at the end of subclause (ii) and inserting in lieu thereof "; and"; and

(4) inserting after subclause (ii) the following new subclause:

"(iii) a person shall not be considered the stepchild of a veteran during the lifetime of such veteran or as of the date of the veteran's death or thereafter on the basis of the adoption of the person by the veteran's spouse on or after July 1, 1987, unless, prior to the time of adoption, the person—

"(I) was orphaned by the death of both parents; or

"(II) was properly committed to and recommended for the adoption by a government-operated child-welfare agency or a duly-licensed child-placement agency.".

INCOME EXCLUSION, CASUALTY LOSS REIMBURSEMENT

SEC. 202. Sections 415(f)(1)(I) and 503(a)(5) are each amended to read as follows:

"reimbursement of any kind for any casualty loss, as defined by the Administrator, provided that in no event shall the amount to be excluded exceed the fair market value of the property involved immediately preceding the loss;".

TITLE III—MISCELLANEOUS AMENDMENTS

REINSTATED ENTITLEMENT PROGRAM FOR SURVIVORS (REPS)

SEC. 301. (a) Section 156(a)(1)(B) of Public Law 97-377, 96 Stat. 1830, 1920 (1982) is amended by inserting after the word "month" the following clause: "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code".

(b) Section 156(a)(1)(C) of Public Law 97-377, 96 Stat. 1830, 1920 (1982) is amended by inserting after "(42 U.S.C. 402(g))" a comma and the following clause: "or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code,".

INDEBTEDNESS OFFSETS BY OTHER FEDERAL AGENCIES

SEC. 302. Section 3114 is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting the following subsection:

"(d)(1)(A) In the event a person becomes indebted to the Veterans Administration by reason of an overpayment of benefits under chapter 11 or chapter 15 of this title, the Administrator, after complying with the procedures provided in subsection (b) of this section, may request that the Secretary of the uniformed service concerned collect any portion of the indebtedness not waived under section 3102 of this title from retired or retainer pay due such person by such uniformed service.

"(B) Such Secretary, upon receiving a request under subparagraph (A) of this paragraph, shall determine whether any retired or retainer pay is payable by such uniformed service to the person named in the request and, if so, shall deduct the amount of any portion of the indebtedness not waived under section 3102 of this title from future payments of retired or retainer pay made to such person by such uniformed service.

"(2)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections.

"(B) For purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

"(i) the term 'records of the agency' shall be considered to refer to the records of the Veterans Administration; and "(ii) the term 'agency' in clauses (3) and (4) shall be considered to refer to the Veterans Administration.

"(3) Funds collected pursuant to a request made under this subsection shall be credited to the Veterans Administration appropriation account from which the overpayment was made.".

ADMINISTRATIVE DEBT COLLECTION BY OFFSET FROM VETERANS' BENEFITS

SEC. 303. Section 3101(c)(1) is amended by—

(1) inserting ": (A)" following "the amount of";

(2) striking out the period at the end thereof and inserting in lieu of the period a semicolon; and

(3) inserting at the end thereof the following: "and (B) any overpayments of retired or retainer pay (for service in a uniformed service named in section 101(3) of title 37) made to the veteran.".

DISCLOSURE OF SOCIAL SECURITY NUMBERS

SEC. 304. Section 3001 is amended by adding the following new subsection:

"(c) Any person who applies for or is in receipt of any compensation or pension benefits under this title is required, as a condition precedent to receipt or continued receipt of such benefits, where a social security number has been assigned, to provide to the Administrator upon request his or her social security number, and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits.".

II

100TH CONGRESS
1ST SESSION

S. 1002

To amend title 38, United States Code, to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the United States nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan; and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 9 (legislative day, MARCH 30), 1987

Mr. CRANSTON (for himself, Mr. SIMON, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. GRAHAM, and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the United States nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) This Act may be cited as the "Veterans' Radiation Exposure Disability and Death Benefits Act of 1987".

(b) Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. FINDINGS AND CONCLUSIONS; STATEMENT OF PURPOSE.

(a)(1) The Congress makes the following findings:

(A) In November 1985, the General Accounting Office (hereinafter in this section referred to as the "GAO") released the results of a two-year study of radiation exposure and radiation safety measures during "Operation Crossroads", the 1946 nuclear weapons test series in the Pacific in which over forty two thousand members of the Armed Forces participated, the largest number of participants of any such test series. The GAO concluded that the estimates of radiation exposure prepared by the Defense Nuclear Agency (hereinafter in this section referred to as the "DNA") for that operation may have significantly understated the actual ionizing radiation exposure received by participants in Operation Crossroads. Specifically, the GAO found:

(i) The DNA radiation exposure estimates were derived primarily from readings taken from film badges designed to detect radiation, which were worn by participants in Operation Crossroads. However, only 15 per centum of the participants actually were issued film badges, and the badges were not worn throughout the entire course of Operation Crossroads.

(ii) The DNA radiation exposure estimates failed to take into account problems related to the film badges which could have resulted in readings that were inaccurate by as much as 100 per centum as a result of defects in the film or in its processing.

(iii) The DNA radiation exposure estimates failed to take into account the extent to which Operation Crossroads participants received additional radiation exposure as a result of a lack or violation of comprehensive decontamination procedures.

(iv) The DNA radiation exposure estimates did not adequately measure internal radiation exposure which could have resulted from ingestion or inhalation, thereby likely further underestimating total radiation exposure.

(B) On the basis of the GAO report, the Congress has concluded that the DNA's radiation exposure estimates provide an incomplete measure of the radiation exposure received by participants in Operation Crossroads.

(C) The DNA radiation exposure estimates have been relied on by the Veterans' Administration (hereinafter in this section referred to as the "VA") in evaluating, and generally denying, claims made by veterans or veterans' survivors for compensation in connection with radiation exposure received during Operation Crossroads.

(D) Including more than forty two thousand veterans who participated in Operation Crossroads, approximately two hundred thousand veterans participated in 235 detonations of nuclear devices in connection with the nuclear weapons testing program. As outlined in paragraphs (8) and (9) of section 2 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), enacted on October 24, 1984, Congress found:

(i) The film badges which were originally issued to members of the Armed Forces in connection with the nuclear weapons testing program have previously constituted a primary source of dose information for veterans and survivors of veterans filing claims under chapter 11 or 13 of title 38, United States Code, for VA disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(ii) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses, were not issued to most of the participants in the tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

(E) Studying the radiation exposure and long-term health effects of the tests other than Operation Crossroads would entail many years, and the delay in providing relief to veterans suffering radiation-related diseases would be unacceptable.

(F) Because of the relatively small size of the population of ionizing radiation-exposed veterans, the high incidence of cancer in the general population, and the great difficulty in locating individuals twenty-five to forty years after their radiation exposure, no scientifically feasible morbidity study has yet been designed of the veterans who participated in the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan. A mortality study of a group of veterans from one series of detonations is only now in its early stages. An earlier mortality study of the veterans from five test series was severely criticized because of the failure to utilize a scientifically appropriate control group.

(G) Scientific research over many years has proven conclusively the dangers to human health from exposure to ionizing radiation.

(2) On the basis of the foregoing findings, the Congress concludes that a significant portion, if not all, of the veterans present at the nuclear detonations were exposed to some quantity of ionizing radiation from inhalation, ingestion, or external exposure and that no fully acceptable or reliable method has been developed to estimate those levels of exposure.

(3) The Congress makes the following further findings:

(A) It has become clear that the present process for adjudicating radiation-exposure claims that has been based on such radiation exposure estimating methods as are described above, has not resulted in the fair adjudication of those claims. As the Congress found in 1984 in section 2(12) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), such claims—particularly those involving health effects with long latency periods—present adjudicatory issues which differ significantly from the issues presented in claims based upon the more usual types of injuries incurred in military service. Although since 1978 substantially more than six thousand claims for compensation or dependency and indemnity compensation have been filed by veterans and their survivors with the VA for disabilities claimed to have resulted from radiation exposure received during participation in the nuclear weapons testing program or in the occupation of Hiroshima or Nagasaki, Japan, the VA has awarded benefits in only twenty-five of those cases.

(B) There is some evidence that officials of the United States Government were aware as early as 1945 of the risks of long-term, adverse health effects from exposure to ionizing radiation. Nevertheless, military personnel repeatedly were exposed to ionizing radiation in connection with the nuclear weapons testing program. These military personnel were not informed of the risks associated with their participation in the program; nor was their health status systematically monitored thereafter.

(C) Accordingly, exposing these military personnel to such risks in experiments relating to the development and potential use of nuclear weapons, and making no systematic effort to monitor their health thereafter, places an even greater than usual responsibility on the Government to ensure that these veterans receive appropriate compensation as well as necessary health care through the VA for any disabilities resulting from such exposure.

(D) The precise correlation between specific doses of ionizing radiation and the probability of cancer induction in a particular body organ or tissue in a given individual is not known at this time. What is known, however, is that—

(i) certain body organs and tissues have been shown to have a high susceptibility to induction of cancers by ionizing radiation, and not to be susceptible to any other risk factors. The resultant diseases are cancer of the thyroid and leukemia;

(ii) other body organs and tissues have been shown to be moderately susceptible to induction of cancer by radiation, and to not be as susceptible to any other risk factors. The resultant diseases are cancer of the colon, cancer of the small intestine, cancer of the stomach, cancer of the liver (except where cirrhosis or hepatitis B is indicated), cancer of the bile ducts, cancer of the gallbladder, cancer of the pancreas, lymphomas (excluding Hodgkin's disease), and multiple myeloma. The link between such diseases and radiation exposure, and therefore the likelihood that the disease was incurred during service, is much less well-established than it is between the diseases referred to in division (i) of this subparagraph; and

(iii) certain other body organs and tissues have been shown to be somewhat susceptible to induction of cancer by radiation, but much less susceptible than those described in divisions (i) and (ii) of this subparagraph, or to be equally or even more susceptible to induction of cancer by other risk factors than they are to radiation. The resultant diseases are cancer of the lung, cancer of the esophagus, cancer of the rectum, cancer of the pharynx, cancer of the liver when cirrhosis or hepatitis B is indicated, cancer of the kidney, cancer of the urinary tract, cancer of the bladder, cancer of the brain and nervous system, cancer of the salivary glands, cancer of the bones and joints, and cutaneous melanoma.

(E) As stated in section 2(13) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542), it has always been the policy of the VA, and it is the policy of the United States, that when, with respect to individual claims for service connection of diseases and disabilities, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

(b) It is therefore the purpose of this Act to establish a process within the VA for carrying out the findings and conclusions of the Congress set forth in subsection (a) in order to—

(1) provide a montly disability or death benefit equal to that provided in chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph

(D)(i) of this paragraph, which has been shown to be strongly associated with radiation and which has not been shown to be strongly associated with any other risk factors;

(2) provide a monthly disability or death benefit payable at the rate of 50 per centum of such compensation as is provided in chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph (D)(ii) of this paragraph, which has been shown to be moderately associated with radiation and which has not been shown to be associated with other significant risk factors; and

(3) Provide special consideration of claims for compensation or dependency and indemnity compensation under chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph (D)(iii) of this paragraph, which has been shown to be somewhat as-

sociated with radiation, but much less so than those diseases referred to in paragraphs (1) and (2) of this subsection, or is equally or more strongly associated with other risk factors than with radiation.

SEC. 3. PROVISION OF DISABILITY AND DEATH BENEFITS FOR CERTAIN VETERANS AND THEIR SURVIVORS.

(a) Title 38 is amended by inserting after chapter 13 the following new chapter:

"CHAPTER 14—DISABILITY AND DEATH BENEFITS FOR CERTAIN VETERANS EXPOSED TO IONIZING RADIATION AND THEIR SURVIVORS.

"Sec.
"451. Definitions.
"452. Disability and death benefits for radiation-exposed veterans and their survivors.
"453. Rates of disability and death benefits.
"454. Special consideration in connection with other diseases.
"455. Contrary affirmative evidence.
"456. Other benefits.

"§ 451. Definitions

"For the purpose of this chapter, the term 'radiation exposed veteran' means a veteran (including a person who died in the active military, naval, or air service) who, in connection with such veteran's participation in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed to ionizing radiation from the detonation of a nuclear device during such veteran's service.

"§ 452. Disability and death benefits for radiation-exposed veterans and their survivors

"(a) In the case of a radiation-exposed veteran who suffers or has died from a disease specified in subsection (c)(1) of this section, the Administrator shall pay a monthly disability benefit to such veteran or a monthly death benefit to the survivors of such veteran in accordance with section 453 of this title.

"(b) In the case of a radiation-exposed veteran who suffers or has died from a disease specified in subsection (c)(2) of this section and whose estimated service-related radiation exposure, as computed pursuant to section 354(c) of this title, exceeds 1 rem, the Administrator shall pay a monthly disability benefit to such veteran or a monthly death benefit to the survivors of such veteran in accordance with section 453 of this title, except that such benefit shall be paid at a rate that is 50 per centum of the rate otherwise payable under such section.

"(c)(1) The diseases referred to in subsection (a) of this section are the following:

"(A) Cancer of the thyroid, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radiation-exposing activity;

"(B) leukemia, when manifested within 30 years after the last date on which the radiation-exposed veteran participated in the ionizing radiation-exposing activity.

"(2) The diseases referred to in subsection (b) of this section are the following, when manifested five or more years after the first date on which the radiation-exposed veteran participated in the ionizing radiation-exposed activity:

"(A) Cancer of the colon;

"(B) cancer of the small intestine;

"(C) cancer of the stomach;

"(D) cancer of the liver, except where cirrhosis or hepatitis B is indicated;

"(E) cancer of the bile ducts;

"(F) cancer of the gallbladder;

"(G) cancer of the pancreas;

"(H) lymphomas (excluding Hodgkin's disease; and

"(I) Multiple myeloma.

"(d) A benefit may not be paid under this section with respect to a disease or the death of a radiation-exposed veteran for any month for which compensation is payable to that veteran for that disease under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

"§ 453. Rates of disability and death benefits

"Except as provided in subsection (b) of section 452 of this title, a disability benefit payable to a veteran for a disease specified in section 452(c) of this title shall be paid at the rate at which compensation would be payable under chapter 11 of this title for the disability resulting from such disease, and a death benefit payable to the survivors of a radiation-exposed veteran pursuant to section 452 of this title shall be paid based on the eligibility requirements (other than any requirement relating to the service-connection or compensability of a disability) and at the rates that apply to benefits under chapter 13 of this title.

"§ 454. Special consideration in connection with other diseases

"(a) When a claim is filed by a radiation-exposed veteran or a survivor of a radiation-exposed veteran for benefits under chapter 11 or chapter 13 of this title, in connection with any disease specified in subsection (b) of this section, the Administrator shall give special consideration to the adjudication of such claim, including giving conclusive weight to the findings of the Congress set forth in section 2 of the Veterans' Radiation Exposure Disability and Death Benefits Act of 1987 relating to the relationship between the disease for which benefits are claimed and ionizing radiation exposure, in the process of evaluating the claim using the radiation-exposed veteran's estimated service-related radiation exposure as computed pursuant to section 354(c) of this title.

"(b) The diseases referred to in subsection (a) of this section are the following, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radition-exposing activity:

"(1) Cancer of the lung;

"(2) cancer of the esophagus;

"(3) cancer of the rectum;

"(4) cancer of the pharynx;

"(5) cancer of the liver when cirrhosis or hepatitis B is indicated;

"(6) cancer of the kidney;

"(7) cancer of the urinary tract;

"(8) cancer of the bladder;

"(9) cancer of the brain and nervous system;

"(10) cancer of the salivary glands;

"(11) cancer of the bones and joints; and

"(12) cutaneous melanoma.

"§ 455. Contrary affirmative evidence

"The provisions of this chapter shall not apply with respect to a disease occurring in a radiation-exposed veteran—

"(1) where there is affirmative evidence that the disease was not incurred as the result of the veteran's participation in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of the disease was suffered by the veteran between the date of the veteran's most recent participation in such a test or in such occupation and the onset of such described disease.

"§ 456. Other benefits

"(a) Any disease establishing eligibility for a disability or death benefit under this chapter shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of this title) as if such disease were service connected.

"(b) Receipt of any disability or death benefit under this chapter shall be treated for purposes of all other laws of the United States as if such benefit were compensation under chapter 11 of this title or dependency and indemnity compensation under chapter 13 of this title, respectively.".

SEC. 4 RADIATION EXPOSURE ESTIMATES.

(a) Section 301 is amended by adding at the end the following new paragraphs:

"(5) The term 'radiation-exposed veteran' means a veteran (including a person who died in the active military, naval, or air service) who, in connection with such veteran's participation in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed to ionizing radiation from the detonation of a nuclear device during such veteran's service.

"(6) The term 'DNA estimate' means the radiation exposure estimate calculated by the Defense Nuclear Agency of the Department of Defense pursuant to the guidelines, as in effect on April 8, 1987, prescribed by the Secretary of Defense pursuant to section 7(a)(1) of the Veterans' Dioxin and Radiation Compensation Standards Act (Public Law 98-542).".

(b) Section 354 is amended by adding at the end the following new subsection:

"(c) For the purpose of adjudicating a claim for benefits under chapters 11, 13, or 14 of this title, submitted by a radiation-exposed veteran or by the survivor of a radiation-exposed veteran, the veteran's estimated service-related radiation exposure shall be the total of the highest radiation exposure estimate determined by the Director of the Defense Nuclear Agency (or any other appropriate office of the Department of Defense) for that individual, as established by film badge reading, reconstruction, or a combination of film badge reading and reconstruction, plus—

"(1) in the case of a radiation-exposed veteran who was exposed to ionizing radiation through such veteran's participation in an operation in the United States Government's nuclear weapons testing program—

"(A) an additional 5 rems, if the DNA estimates indicate that 25 per centum or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 25 per centum or more of the total number of participants in the operation, were exposed to more than 3 rems of ionizing radiation;

"(B) an additional 3 rems, if the DNA estimates indicate that 25 per centum or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 25 per centum or more of the total number of participants in the operation, were exposed to more than 1 rem of ionizing radiation; or

"(C) an additional 1 rem, if the DNA estimates indicate that 20 per centum or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 20 per centum or more of the total number of participants in the operation, were exposed to more than 0.5 rem of ionizing radiation;

"(2) in the case of a radiation-exposed veteran who was exposed to ionizing radiation through such veteran's participation in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, an additional 1 rem; or

"(3) in the case of a radiation-exposed veteran (A) who was exposed to ionizing radiation through such veteran's participation in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, and participated in one or more nuclear weapons tests, or (B) who participated in one or more nuclear weapons tests, the total of the highest number of rems determined for the veteran under clause (1)(A), (B), or (C) of this subsection plus the number of rems determined under clause (2) of this subsection.".

SEC. 5. DEFINITIONS.

For the purpose of this Act, the term "radiation-exposed veteran" shall have the same meaning given such term in section 451 of title 38, United States Code (as added by section 3 of this Act).

SEC. 6. PRESERVATION OF EXISTING RIGHTS.

Nothing in this Act shall in any way operate or be construed to prevent the granting of service connection under chapter 11 or 13 of title 38, United States Code, in the case of any disease or disability from which a radiation-exposed veteran suffers, including those diseases or disabilities described in this Act, otherwise determined through the exercise of sound judgment to have been incurred in or aggravated by active military, naval, or air service, including such veteran's participation in the United States Government's nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946.

SEC. 7. EXTENSION OF HEALTH-CARE ELIGIBILITY.

The provisions of section 610(a)(1)(G) of title 38, United States Code, as such provisions relate to eligibility for hospital care on the basis of exposure to radiation, shall, notwithstanding any such provision, terminate no earlier than the date on which, pursuant to section 10 of this Act, the provisions of this Act terminate.

SEC. 8. REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE REPORTS.

Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives".

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on October 1, 1987. No benefit may be paid for any period before such date by reason of the enactment of this Act.

SEC. 10. TERMINATION OF ACT.

The provisions of the amendments made by sections 3 and 4 of this Act shall not apply with respect to any claim for benefits filed after September 30, 1990.

II

100TH CONGRESS
1ST SESSION

S. 1090

To amend title 38, United States Code, to provide authority for higher monthly installments payable to certain insurance annuitants, and to exempt premiums paid under Servicemen's and Veterans' Group Life Insurance from State taxation.

IN THE SENATE OF THE UNITED STATES

APRIL 23 (legislative day, APRIL 21), 1987

Mr. CRANSTON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to provide authority for higher monthly installments payable to certain insurance annuitants, and to exempt premiums paid under Servicemen's and Veterans' Group Life Insurance from State taxation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans Administration Insurance Amendments of 1987".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

AUTHORITY FOR ANNUITY ADJUSTMENTS

SEC. 101. (a) Subchapter 1 of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Notwithstanding sections 702, 723, and 725 of this title, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving such proceeds under a life annuity settlement option. The Adminstrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound for the program of insurance concerned.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly annuity amounts authorized in sections 702, 723, and 725 of this title shall remain the minimum rates payable.".

(b) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

SEC. 102. (a) Subchapter II of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Notwithstanding section 744 of this title, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving such proceeds under a life annuity settlement option. The Administrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) In no event shall calculations of the monthly installment amount be less than that authorized in section 744 of this title.".

(b) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

EXEMPTIONS FROM STATE TAXATION

SEC. 201. Section 769 of title 38, United States Code, relating to Servicemen's and Veterans' Group Life Insurance, is amended by adding at the end thereof the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

VETERANS' MORTGAGE LIFE INSURANCE

SEC. 301. (a) Section 806 of title 38, United States Code, is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran, unless the veteran elects in writing not to be insured under this section or fails to timely respond to a request from the Administrator for information on which his premium can be based.

"(b) The initial amount of insurance provided hereunder shall not exceed the lesser of $40,000 or the amount of the loan outstanding on such housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and at no time shall exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, no insurance shall be payable hereunder. If any eligible veteran elects not to be insured under this section, he may thereafter be insured hereunder only upon application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

"(c) The premium rates charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator shall prescribe and shall be based on such mortality data as the Administrator deems appropriate to cover only the mortality cost of insuring standard lives. The Administrator is authorized and directed to deduct the premiums charged veterans for life insurance under this section from any compensation or other cash benefits payable to them by the Veterans' Administration. Any veteran insured hereunder not eligible for cash benefits from the Veterans' Administration may pay the amount of his premiums directly to the Veterans' Administration for insurance hereunder.

"(d) The United States shall bear all of the costs of insurance under this section to the extent such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the "Veterans Insurance and Indemnities" appropriation and all disbursements of insurance proceeds under this section shall be made from that appropriation. Appropriations are authorized to carry out the purposes of this section.

"(e) Any amount of insurance in force under this section on the date of death of a eligible veteran insured hereunder shall be paid only to the holder of the mortgage loan, for payment of which such insurance was granted, for credit on the loan indebtedness and the liability of the United States under such insurance shall be satisifed when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance preceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) With respect to insurance issued under this section, the Administrator is authorized to adopt such regulations relating to eligibility of the veteran for insurance, maximum amount of insurance, effective date of insurance, maximum duration of insurance, and other pertinent factors not specifically provided for in this section, which in his judgment are in the best interest of veterans or the Government. The amount of the insurance at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) or regulations issued by the Administrator under this section. The Administrator shall issue to each insured veteran a uniform type of certificate setting forth the benefits to which he is entitled under the insurance.

"(g) Insurance under this section shall terminate upon whichever of the following events first occurs—

"(1) satisfaction of the veteran's indebtedness under the loan upon which the insurance is based;

"(2) the veteran's seventieth birthday;

"(3) termination of the veteran's ownership of the property securing the loan; or

"(4) discontinuance of payment of premiums by the veteran.

"(h) Termination of life insurance under this section will in no way affect the guaranty or insurance of the loan by the Administrator.".

(b) The table of sections at the beginning of chapter 21 is amended by striking out "806. Mortgage Protection Life Insurance." and inserting in lieu thereof "806. Veterans' Mortgage Life Insurance.".

SEC. 302. (a) Mortgage protection life insurance granted to any veteran before the effective date of these amendments shall be known thereafter as "Veterans' Mortgage Life Insurance", and shall continue in force with the United States as insurer, subject to the terms of section 301 of this Act. Nothing in this Act shall impair rights of any veteran or mortgage loan holder under section 1 of Public Law 92–95, as amended, which matured prior to the effective date of this Act.

(b)(1) Effective October 1, 1987, the Administrator of Veterans' Affairs shall discontinue the policy of insurance purchased in accordance with section 1 of Public Law 92-95.

(2) All premiums collected or received on or after the effective date of these amendments by the insurer under the policy purchased pursuant to section 1 of Public Law 92-95 shall be promptly forwarded to the Administrator of Veterans' Affairs and credited to the veterans insurance and indemnities appropriation. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and depostited by him in the veterans insurance and indemnities appropriation, subject to the right of the insurer to make such payment in equal monthly installments over a period of not more than two years.

EFFECTIVE DATE

SEC. 401. The amendments made by sections 101 through 201 shall take effect on the date of enactment of this Act, and with respect to the provisions of section 201 shall apply to premiums paid on or after such date.

SEC. 402. The amendments made by section 301 shall take effect October 1, 1987.

II

100TH CONGRESS
1ST SESSION

S. 1365

To amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 1987

Mr. GRAHAM, (for himself, Mr. CRANSTON, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. ROCKEFELLER, and Mr. MITCHELL) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That (a) section 312(b) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clause:

"(13)(A) peripheral neuropathy, (B) irritable bowel syndrome, or (C) peptic ulcer disease, if manifested within ten years after the last date of the veteran's detention or internment and the symptoms have recurred on a continuous or regularly intermittent basis thereafter,".

(b) The amendments made by this section shall take effect on October 1, 1987.

OPENING STATEMENT
SENATOR ALAN CRANSTON
CHAIRMAN
SENATE COMMITTEE ON VETERANS' AFFAIRS

LEGISLATIVE HEARING ON VARIOUS BILLS RELATING TO VA COMPENSATION AND OTHER SERVICE-CONNECTED BENEFITS

JUNE 30, 1987

Good morning. Welcome to today's hearing on legislation relating to VA compensation and other service-connected benefits. We are very grateful to those of you who are appearing before us today to provide your views on these issues. The bills on which we are receiving testimony are S. 9, S. 453, S. 1002, S. 1365, S. 917, S. 919, S. 940, and S. 1090.

In light of the great need to reduce the towering federal deficit, it is incumbent upon those of us in Congress to exercise prudence and restraint as we consider legislation relating to federal programs of benefits and services. However, we also must honor our commitment to the maintenance of a strong and vital program of benefits for those who answered their Nation's call in its hour of need. VA compensation and other service-connected benefits are at the heart of that program -- and it is up to us to ensure that inflation does not erode them, and to ensure equitable benefits for deserving veterans not being fairly treated under current law.

That will be my perspective as we move forward with the legislation that is before the Committee today.

The Committee will hear testimony covering a wide variety of subjects -- ranging from proposals to exempt certain VA service-connected and other programs from Gramm-Rudman sequestration, to initiatives which would provide benefits for veterans exposed to radiation during the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan, and for former prisoners of war. Also included are several Administration-requested bills which I have introduced, as I pledged I generally would, on the Administration's behalf.

As the author of S. 9, which I introduced on January 6, of S. 1002, which I introduced on April 9, and, along with Senator Graham, of S. 1365, introduced on June 16, 1987, I will, of course, be very interested in the witnesses' views on these measures, as well as on Senator Murkowski's bill, S. 453, and on the other bills scheduled for today's hearing.

S. 9: With more specific reference to S. 9, which is cosponsored by Senators Matsunaga, DeConcini, Mitchell, Rockefeller, Graham, and Lautenberg, I would like, at this point, just to highlight certain of its provisions. (Those provisions of S. 9 relating to the VA home loan program -- section 6 and, insofar as the proposed Gramm-Rudman exemption applies to the home loan program, section 8(a) -- were covered at our June 17 hearing on the VA home loan program and therefore will not be discussed today.)

Compensation Rate Increase: The VA's service-connected disability compensation program is at the very heart of our system of veterans' benefits. The Committee has consistently attached the highest priority to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice. Meeting the needs of the more than 2.2 million veterans who suffer from disabilities resulting from their service and the 340,000 survivors of those who died from service-connected disabilities will remain my number one priority in veterans' affairs.

S. 9 would, in section 2, provide for a cost-of-living adjustment (COLA) in the rates of disability compensation for veterans who suffer from service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of veterans who have died from service-connected causes, equal to the COLA percentage to be provided for Social Security and VA pension benefits, effective December 1, 1987. As I and other members of the Committee have noted on numerous occasions, our commitment to this approach remains strong. The most recent estimate of the Congressional Budget Office (CBO) is that the Social Security increase will be 4.1 percent.

Specially Adapted Housing Assistance: Section 3 of S. 9 would increase by 12.5 percent, from $35,500 to $40,000, effective October 1, 1987, the maximum amount payable in specially adapted housing assistance, under the so-called "wheelchair home" program, to certain veterans having disabilities rated totally and permanently disabling and to others with service-connected disabilities involving mobility impairments. Under this program, the VA provides these veterans with cash assistance in acquiring suitable housing with adaptations made necessary by the nature of their disabilities. There are two types of grants.

First, certain disabled veterans are eligible for a grant, payable under section 801(a) of title 38, not to exceed 50 percent of the cost of the home and necessary land, up to a maximum of $35,500. Veterans eligible for housing assistance grants are principally quadraplegics, paraplegics, amputees, and certain others who, because of their service-connected disabilities, require the use of a wheelchair, braces, a cane, or crutches to move about. Their disabling conditions typically require ramps, special bathroom equipment, extra-large rooms and hallways, and various other adaptations that protect their health and safety.

Increases in the maximum amount of this grant have been provided periodically. The last increase, to $35,500, derived from legislation I introduced in the 98th Congress, was made by Public Law 98-543 and was effective on January 1, 1985. By raising the maximum limit of the assistance by 12.9 percent, to $40,100, effective October 1, 1987, S. 9 would counter the effects of inflation on the value of this benefit over the 2 and 1/2 years preceding that date.

Second, there is the program of assistance, payable under section 801(b) of title 38 and enacted in 1980 based on legislation I authored, under which veterans suffering from service-connected total blindness or the loss or loss of use of both upper extremities are entitled to up to a maximum of $6,000 for the purposes of making special adaptations that the Administrator determines are reasonably necessary because of the veteran's disability. S. 9 would also increase this amount by 12.9 percent, up to $6,775, effective October 1, 1987. This maximum amount was last increased from $5,000 to $6,000, effective January 1, 1985, when the wheelchair grant assistance maximum was increased.

Funeral and Burial Benefits for Service-Connected Deaths: Section 4 of S. 9 would also provide for an increase of $900 -- from $1,100 to $2,250 -- in the allowance which the VA pays to defray the funeral and burial expenses for a veteran who dies of service-connected causes. Until 1974, there was no difference between the funeral and burial benefits paid to the survivors of veterans who died from service-connected causes and those who died from non-service-connected causes. The amounts so provided for funeral and burial expenses were substantially less than the average funeral and burial costs in this country. In recognition of the greater federal responsibility for service-connected deaths, Congress corrected that situation in part, by enacting legislation I proposed to increase from $250 to $800 the maximum allowance payable for such deaths. That legislation, section 5(a)(2) of the National Cemeteries Act of 1973 (Public Law 93-43), tied the amount of these allowances to the amount payable under section 8134(a) of title 5, United States Code, on behalf of federal employees who die from injuries sustained in the performance of their duties.

However, the $800 maximum payable under that title 5 provision was set in 1958 and, despite the very substantial rise in funeral and burial expenses over the past nearly 30 years, only once have we been able to increase the veterans' maximum allowance, to $1,100 in 1978, then approximately 82 percent of the average funeral cost of $1,348 at that time. According to a study by the Federation of Funeral Directors, the cost of an average adult funeral had risen to $2,745 in 1986.

I have long felt that the highest priority of VA programs relating to burial and cemetery benefits should be assistance to the survivors of those veterans who die from service-connected causes. Hence, in view of the substantial increase in the cost of burial since 1978, our measure would increase the maximum allowance in such cases to $2,250, thereby restoring the 82-percent coverage that then existed.

Tolling the Running of Delimiting Periods by Reason of Drug or Alcohol Conditions: This provision is in section 5 of S. 9. In the GI Bill Improvement Act of 1977, Public Law 95-202, Congress adopted legislation I proposed to amend the Vietnam-Era GI Bill and the Survivors' and Dependents' Educational Assistance (chapters 34 and 35, respectively) to grant extensions of the 10-year delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of willful misconduct. Similar authorities were subsequently incorporated in all of the educational assistance programs authorized by title 38 -- the chapter 30, New GI Bill program, the chapter 31, vocational rehabilitation program, and the chapter 32, Post-Vietnam Era veterans program. Under these provisions, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, the VA has routinely denied a delimiting-period extension to an otherwise eligible veteran when the condition on which the veteran based his or her claim was an alcohol or drug abuse or dependence disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension.

Five times since 1977, however, the Committee has reported and the Senate has passed provisions to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered will not, solely for purposes of deciding requests for delimiting-period extensions, be considered to be the result of willful misconduct. However, despite the Committee's strongest urgings, the House has not accepted either the GI Bill or the rehabilitation program provisions for delimiting-period extensions based on drug or alcohol disabilities.

I continue to believe that the opportunity to use VA educational and rehabilitation benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits is fully consistent with the readjustment and rehabilitation goals of these programs. I am moving forward with this rehabilitative effort again at this point because of two recent events. First is the great and concerted efforts made by both Houses late last year in enacting major new drug and alcohol abuse legislation, the Anti-Drug Abuse Act of 1986, Public Law 99-570. In that legislation, Congress clearly recognized the imperative of providing individuals who have drug or alcohol conditions with every reasonable opportunity to participate in programs that can help them return to full, productive lives. Second, now pending before the Supreme Court are two cases, McKelbey v. Turnage and Trayner v. Turnage, in which the veterans claim that the denials of their requests for extension violate the prohibitions in section 504 of the Rehabilitation Act of 1973 against a denial of a federal benefit on the basis of handicap.

I am hopeful that the House Committee and the Veterans' Administration will be willing to reconsider their opposition to these provisions which we have repeatedly passed in the Senate before.

Automobile Assistance Allowance: Section 7 of S. 9 would provide for an increase in the maximum amount of the automobile assistance allowance, provided by the VA to veterans with certain severe service-connected disabilities. The bill would increase the allowance by 10.9 percent, from $5,000 to $5,530, effective October 1, 1987. Under the program of automobile assistance, enacted in 1946, veterans who have suffered the service-connected loss or loss of use of one or both feet, or one or both hands, or service-connected blindness are entitled to a one-time VA grant to assist them in purchasing an automobile. This is a highly deserving category of veterans, and I believe all of my colleagues would agree that this benefit for them should not be permitted to be diminished over the years by the rising cost of a new car.

In 1974, 1978, 1981, and 1984, increases -- based on legislation I authored -- were enacted into law by Public Laws 93-548, 95-479, 97-66, and 98-543, respectively. Since the effective date of the last increase, January 1, 1985, the Bureau of Labor Statistics' Consumer Price Index component for new automobiles has risen by 6.7 percent, with the Consumer Price Index expected to increase by 3.9 percent in fiscal year 1987, according to the CBO. Increasing the automobile assistance allowance from $5,000 to $5,530, would thus help protect the value of this benefit from being eroded by inflation.

Sequestration Exemptions: Section 8 of S. 9 would modify provisions enacted in section 601 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576) -- which provided exemptions from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), commonly referred to as "Gramm-Rudman", for certain VA programs -- so as to provide for appropriate additions to those exemptions, principally for service-connected benefits. Either in the original Gramm-Rudman law or in subsequent legislation, Congress has provided permanent exemptions for most benefits for which entitlement is based on service-connected death or disability, including compensation paid to veterans with service-connected disabilities; DIC; specially adapted housing grants, mortgage protection life insurance, and automobile and adaptive equipment grants for certain service-connected-disabled veterans; and burial benefits for those who die from service-connected causes.

However, exemptions for only one year -- fiscal year 1987 -- were enacted for two benefits programs for which entitlement is also based on service-connected death or disability, namely, vocational rehabilitation for certain service-connected disabled veterans (chapter 31 of title 38) and educational assistance for the survivors of those who die from service-connected causes and the dependents of veterans with service-connected disabilities rated totally and permanently disabling (chapter 35 of title 38). S. 9 would provide unrestricted exemptions for these two programs, effective beginning in fiscal year 1987.

I regret that last year, although the Committee debated several proposals providing different forms of exemptions, we were not able to enact permanent exemptions for these high-priority service-connected benefits. I am hopeful that we will have better success this year. Regarding the chapter 31 program, it was agreed last year that the Committee would conduct a review of that program during the next Congress, and I plan to honor that agreement. However, I strongly believe that any problems that may come to light regarding the program should be remedied by administrative or legislative modifications of the program -- not through a limitation on the sequestration exemption. With respect to the chapter 35 program, I remain convinced that, in light of the high moral obligation which underlies this program, the applicable sequestration exemption should not be time limited. I continue to see no basis for distinguishing between this program of recompense through educational assistance for those whose veteran spouse or parent has died as a result of a service-connected disability and the DIC program of recompense through cash assistance for those same spouses and dependents.

S. 9 also would modify the effective dates of exemption for two self-sustaining revolving funds, the Special Therapeutic and Rehabilitation Activities Fund and the Canteen Service Revolving Fund -- which never require appropriations and do not contribute to the budget deficit -- to make the exemptions retroactive to fiscal year 1986, in order to invalidate payments out of these funds that were required -- albeit totally illogically -- under the fiscal year 1986 sequestration.

S. 1002: On April 9, I, together with Senators Simon, Matsunaga, DeConcini, Mitchell, Rockefeller, Graham and Pell, introduced S. 1002 to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan. S. 1002 now is also cosponsored by Senators Daschle, Reid, Sasser, Burdick, Dixon, Pryor, and Bingaman.

At the outset, I want to recognize the contribution of Senator Murkowski in introducing a radiation compensation bill this session -- S. 453, on which we will also be hearing testimony today -- which has played a major role in focusing the debate on and bringing about increased attention to this area. His efforts have started a momentum which I believe can and will result in the passage of radiation exposure benefits legislation this year. I also want to extend similar recognition to the activity in the House Committee on Veterans' Affairs, where five members, including the Chairman, Mr. Montgomery, joined with Representative Rowland of Georgia to introduce a radiation compensation measure, H.R. 1811.

Finally, and foremost, I wish to note the leadership of the principal cosponsor of this bill, my good friend, Senator Simon, on the issue of compensation for veterans exposed to ionizing radiation. Dating back to his service in the House, Paul Simon has been at the forefront of efforts to secure compensation for these veterans. We are all deeply indebted to him for his compassion and foresight, and I am truly delighted and honored to have his active support for this measure.

The concerns and problems facing the approximately 220,000 veterans who were exposed to ionizing radiation while in the service of our country through the nuclear test program or the American occupation of Japan fall into three general categories: Compensation for disabilities possibly related to exposure, answers to questions about the actual effects of exposure to low-level ionizing radiation, and, finally, access to health care for current problems that might be related to the exposure. Although Congress has addressed the latter two issues in what I believe are significant and appropriate ways, the compensation issue has not gone forward, pending the continuing search for greater scientific understanding of the effects of low-level radiation exposure on human health.

Previously, I considered it premature to provide presumptive compensation -- that is, for Congress to make decisions regarding the relationship between relatively low levels of ionizing radiation exposure and the diseases of the various body organs and tissues when the scientists could not. That is one of the reasons why I introduced the legislation, ultimately enacted as Public Law 98-160, which mandated epidemiological study of the long-term health effects of exposure to ionizing radiation on those veterans who participated in the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan, and why I also joined with Senator Simpson in authoring the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, enacted as Public Law 98-542. However, after more than 3 years of evaluation, the scientists now have indicated that it is not scientifically feasible to design a morbidity study of those radiation-exposed veterans. What is now under consideration is a mortality study involving only one series of detonations.

Additionally, information set forth in a 1985 General Accounting Office (GAO) study I requested on Operation Crossroads -- the 1946 two-detonation series in the Pacific -- about the safety precautions during that operation and about the degree to which the uniformed personnel may have been exposed to ionizing radiation there, as well as preliminary information from GAO about a subsequent test series, Operation Redwing in 1953 -- and apparent decisions during that series to place pilots and air crews in highly contaminated environments -- have raised some very serious questions in my opinion. I believe we cannot with confidence give credence to categorical assurances from the Executive Branch based on Defense Nuclear Agency's (DNA) exposure estimates that there was generally no significant exposure to radiation among the veterans who participated in the nuclear weapons testing program or the American occupation of Japan.

Officials of the United States Government were aware as early as 1945 of the risks of long-term, adverse health effects from exposure to ionizing radiation. Nevertheless, military personnel continued to be exposed to ionizing radiation in connection with the nuclear weapons testing program. These military personnel were not informed of the risks associated with their participation in the program, nor was their health status systematically monitored thereafter. These factors place an even greater than usual responsibility on the Government to ensure that these veterans receive appropriate compensation as well as necessary health care through the VA for any disabilities that could reasonably have resulted from such exposure.

It has become clear that the reliance in the present claims adjudication process on DNA radiation exposure estimates has often prevented fair consideration of these claims. Scientific research over many years has proven conclusively the dangers to human health from exposure to certain higher levels of ionizing radiation. But, such claims, particularly those involving health effects with long latency periods, present adjudicatory issues which differ significantly from the issues presented in claims based upon the more usual types of injuries incurred in military service. Although substantially more than 6,000 claims for compensation or DIC have been filed by veterans and their survivors with the VA since 1978 for disabilities resulting from exposure to low-level ionizing radiation, according to the VA it has awarded benefits in only 28 of those cases. The circumstances of these 28 cases and of many where the claim was rejected reveal no consistent analytical process.

S. 1002 addresses the two key problems which have resulted in the denial of over 99 percent of all claims for VA benefits filed by radiation-exposed veterans: First, the impossibility of determining, in a given individual, whether his disability was caused by radiation exposure rather than by something else; and, second, underestimates in the DNA radiation exposure estimates on which the VA relies in claims adjudication.

S. 1002 has two main provisions:

First, presumptive disability and death benefits, at either 100 percent or 50 percent of regular VA compensation, or special consideration in the adjudication of claims for benefits, are provided for veterans (and their survivors) based on exposure to ionizing radiation through participation in the nuclear weapons testing program or the American occupation of Japan and the development of certain cancers which have been associated with ionizing radiation exposure. The level of benefits available for a particular cancer is based on the strength of the association between the cancer and radiation, and between the cancer and other significant risk factors, such as tobacco smoking.

The first category of cancers (benefiting 502 claimants in FY 1988), those that are strongly associated with radiation and are not associated with any other significant risk factors (thyroid cancer and leukemia), would carry an entitlement to 100 percent of regular VA compensation. The second category of cancers covered by the bill (benefiting 13,467 claimants in FY 1988), those that are moderately associated with radiation and are not associated with any other significant risk factors (cancers of the colon, small intestine, stomach, liver (except where cirrhosis or hepatitis B is indicated), bile ducts, gallbladder, and pancreas, and lymphomas (excluding Hodgkin's disease) and multiple myeloma), would carry an entitlement to 50 percent of regular VA compensation if there was exposure to at least one rem of radiation. A reduced level of benefits (50 rather than 100 percent -- or zero percent, as generally is the case under current law) is provided because the cancers in this group have a lesser association with radiation, so that the risk of developing these cancers because of radiation exposure is much less. I believe that this is a fair approach to the difficult problem of compensating for cancers that were reasonably likely to have been caused by radiation while not compensating for those likely caused by some other, non-service-connected factor.

In S. 1002's third category of cancers, those which are strongly associated with radiation but which are also associated with other significant risk factors such as tobacco smoking or excessive alcohol consumption, or which have only a weak association with radiation, will be entitled to special consideration of their claims. (Cancers of the lung, esophagus, rectum, pharynx, liver (when cirrhosis or hepatitis B is indicated), kidney, urinary tract, bladder, brain and nervous system, salivary glands, bones and joints, and cutaneous melanoma.)

S. 1002 would not preclude the granting of any benefits under chapter 11 or chapter 13 of title 38. Consequently, a radiation-exposed veteran who is eligible for benefits at the rate of 50 percent of regular compensation, pursuant to the provisions of the bill, would retain the alternative of proving his entitlement to full compensation under title 38.

Second, DNA radiation-exposure estimates, on which the VA relies in evaluating claims for benefits, will be raised for approximately 2/3 of all radiation-exposed veterans from both the nuclear weapons testing program and the American occupation. The recalculation formula in S. 1002 is based on the ranges of exposure estimates for substantial segments of the participants in each operation, as determined by the DNA estimates. The estimates would be increased by from 1 to 5 rems.

The provisions of S. 1002 which I have just discussed, relating to ionizing radiation exposure, would terminate as to new claims submitted after September 30, 1990. This date is expected to be approximately one year after the VA submits the report from the Public Law 98-160 radiation mortality study. At that time, Congress could make adjustments -- including the addition of any cancers not included in S. 1002 which are found to be associated with radiation exposure -- as appropriate in light of the study results; and it is my intention that Congress do just that, should the study results so warrant.

Because the benefits provided in S. 1002 thus would be interim benefits, they would not be added to the compensation benefits provided in chapters 11 and 13 of title 38. This is the same approach that was taken in 1984 in Public Law 98-542, which provided interim benefits for certain veterans exposed to Agent Orange through their service in Vietnam. In addition, because some of the benefits would be paid at the rate of half of chapter 11 or chapter 13 benefits, it is more appropriate, in terms of not establishing a precedent and maintaining the technical integrity of the chapters 11 and 13 benefits, that the new benefits not be added to the benefits provided in those chapters. However, other than where they appear in title 38, these are regular VA service-connected benefits, for all purposes, including determination of disability ratings.

In order to demonstrate the basis for the proposed benefit scheme, S. 1002 also would incorporate a number of Congressional findings on the state of science pertaining to ionizing radiation exposure, including the calculation of and the carcinogenic effects of such exposure; the VA's history of adjudicating radiation claims; and the difficulties involved in resolving veterans' claims for VA benefits when based on exposure to ionizing radiation.

CBO informally estimates the average annual cost of S. 1002 to be approximately $65 million per year for the first 4 years. CBO also estimates that, in fiscal year 1988, approximately 14,760 veterans and survivors would receive benefit payments who otherwise would not be benefitted under current law, by far the most of any other radiation measure pending in this Congress.

Section 7 of S. 1002 would extend the entitlement to VA health care for ionizing radiation-exposed veterans provided in section 610(a)(1)(G) of title 38 until September 30, 1990, the termination date of the provisions in the bill relating to the handling of new radiation claims. Under current section 610, such health care entitlement would terminate after September 30, 1989.

Section 8 of S. 1002 would require that the reports of the Veterans' Advisory Committee on Environmental Hazards, which are required under section 6(d)(3) of Public Law 98-542 to be sent to the Administrator of Veterans' Affairs, be sent concurrently to the Senate and House Veterans' Affairs Committees.

I have thought a great deal about the issue of compensation for these veterans and their survivors and possible resolutions of the difficulties inherent therein, and I believe that S. 1002 provides a compassionate and fair approach. We have a responsibility to ensure that the burden of answering what may prove to be unanswerable questions regarding the health effects of exposure to ionizing radiation will no longer be used to deny benefits to those who have earned them.

S. 1365: On June 16, I was very pleased to join, along with Senators Murkowski, Matsunaga, DeConcini, Mitchell, and Rockefeller, with Senator Graham in introducing S. 1365, which would establish presumptions of service connection for certain diseases of former prisoners of war. The basic purpose of these provisions is to lessen the burden on a former POW to submit evidence to the VA showing that certain disabilities are service connected for purposes of applying for VA disability compensation. S. 1365 now is also cosponsored by Senators Sanford and Simpson.

I want to recognize the efforts in the House Committee on Veterans' Affairs, where Representatives Applegate and McEwen have introduced a similar bill. I look forward to working with them and the House Committee towards the enactment of legislation which would facilitate the award of compensation for these deserving veterans for the three conditions focused on by this measure -- peripheral neuropathy, peptic ulcer disease, and irritable bowel syndrome.

Over the many years I have served on the Veterans' Affairs Committee, both as its chairman and Ranking Minority Member, I have come to know very well the deep concerns that many have -- and which I fully share -- for those of our nation's veterans who made great sacrifices and endured extreme hardships as prisoners of war. Their strength, courage, and love of freedom helped to preserve our country, and we truly owe them a debt that can never be fully repaid.

In a VA study undertaken as a result of legislation I authored in Public Law 95-479, the VA found that, although the particular type and source of hardship differed significantly according to place and time of internment, American POWs from each of the three most recent wars -- World War II, Korea, and Vietnam -- were subjected to widespread hardships that often included extreme malnutrition, great psychological stress and abuse, inadequate medical care, brutal living conditions, and, very frequently, physical and psychological torture.

The study also found cause for concern that some disabilities of ex-POWs that may well be attributable to their internment are not considered to be service-connected by the VA. The report on the study cited the statements of physicians to the effect that the conditions to which POWs were subjected can have long-term effects that may not be identifiable for extended periods of time and that, because of the lack of definitive medical knowledge regarding the effects of internment, might never be diagnosed as having their origins in the POW experience. It was also noted that most American physicians have difficulty in recognizing the residuals of malnutrition.

In general, the VA report concluded:

> Serious limitations in knowledge as to the delayed effects of such stresses and deprivations as [were] experienced by prisoners of war [are] . . . a major obstacle for decisionmakers [in the VA claims adjudications process].

In addition to suffering from disabilities that are difficult to detect or difficult to attribute to a specific cause, ex-POWs from World War II and Korea claiming service connection are often confronted with problems arising from the absence of records of their repatriation examinations. According to the VA report, physicians who reviewed a sample of claims folders of World War II European and Pacific theater ex-POWs -- who comprise the largest group of former POWs -- found that less than one-fifth of the European theater ex-POWs and only three-fifths of those from the Pacific theater who had filed claims for compensation had evidence of a repatriation examination. These physicians also found that many of the examinations had significant omissions and that over half contained either no medical history prior to capture or a poor history. Accordingly, a record of health conditions manifested during service, which would provide the necessary information to establish a service-connected and therefore compensable disability, is unavailable in many cases.

The limited research funding which has been available for morbidity studies of ex-POWS has resulted in an insufficiency or absence of scientific confirmation of claimed increased incidences of various disabilities as a result of captivity. In addition, diagnosis of -- and thus research on -- the diseases under consideration here is made difficult because their symptoms, particularly in the case of peptic ulcer disease and irritable bowel syndrome, can vary greatly from one individual to the next, and because of a necessary reliance on evaluation of subjective factors, such as pain. The scientific information concerning the diseases discussed below has come primarily from studies of the general population; there are few controlled studies which confirm excess incidences of these diseases among former POWs. However, the information which is available from these more general studies indicates that the conditions experienced by ex-POWs while in captivity -- such as severe malnutrition, extreme stress, and exhausting physical exertion -- likely are significant risk factors for these diseases.

The only significant morbidity study of former POWs is the NAS' longitudinal study of a group of former POWs, which began shortly after WWII ended and still is ongoing. However, that study did not include any direct clinical assessment of its subjects. In August 1986, therefore, the NAS began a comprehensive Medical Examination Survey of Former POWs from WWII and the Korean Conflict, which is expected to be completed in August 1988. Two thousand ex-POWs and 2000 matched controls are undergoing physical examinations and will be completing medical questionnaires, providing data which will be analyzed by the NAS.

The NAS study has been criticized because the examinations are being conducted at different VAMCs across the country. Although the examinations are being conducted in accordance with the standardized format established in the VA's protocol for POW examinations, which has been used by the VA since 1983, key variables such as the length of the examination, the level of training provided the relevant VA personnel, and the overall thoroughness of the examination, likely will vary from one VAMC to another. The NAS study also has been criticized for emphasizing psychological morbidity in ex-POWs, which already has been the subject of several significant studies, rather than physical morbidity, about which much less is known.

These criticisms of the study are not without some merit, and the NAS and the VA Advisory Committee on Ex-POWs (Advisory Committee) agree that conducting all of the physical examinations at one facility would reduce any variability among examinations. That has not been possible due to funding limitations, and both the NAS and the Advisory Committee have expressed confidence about the scientific validity of the study.

I certainly do not believe that the study has been compromised or that its results should automatically be discredited. However, because of the relatively small size of the study population, results indicating the absence of an excess of incidence of a particular disease may indicate only that the study was not powerful enough to detect such excess, not that the excess is not present in ex-POWs. Accordingly, although I think that the NAS study will prove to be a valuable and significant contribution to our knowledge regarding the long-term health effects of internment, I do not believe that where, as in the cases of the diseases addressed here, present scientific evidence already supports a causal connection between internment and a particular disease, we must delay providing compensation to our ex-POWs while we wait for results from the NAS study, which very well may prove equivocal.

However, in the case of those diseases for which a causal link with captivity is merely suspected but has not received a reasonable degree of scientific validation, good public policy and the interests of fairness to all veterans, including former POWs, dictates that we look to the NAS physical examination study for further evidence to support or possibly to negate such links.

The biennial report of the Advisory Committee is expected to be submitted to the Administrator by July 1, 1987. I understand that the Advisory Committee will be supporting presumptive compensation for the three diseases included in S. 1365, which they have addressed in the context of a review of H.R. 1811.

It seems clear that, although many ex-POWs have been awarded disability compensation, an ex-POW with a disability resulting from the conditions of his or her internment often may face practical difficulties in proving that internment actually contributed to the disability. Indeed, in recognition of some of these difficulties, Public Law 91-376 was enacted to create rebuttable presumptions of service connection with respect to certain disorders. And, since that time, as new scientific evidence has demonstrated the relationships between the conditions experienced by ex-POWs while in captivity and certain other disorders, I have worked to provide for the enactment of additional presumptions. I will continue to do so.

Such is the case with the three disorders addressed by S. 1365. Recent studies of both ex-POWs and the general population indicate that the conditions experienced by ex-POWs during internment -- including severe malnutrition, extreme stress, and exhausting physical exertion -- are significant risk factors for peripheral neuropathy, peptic ulcer disease, and irritable bowel syndrome. The bill provides presumptive compensation for these diseases where manifestation first occurs within 10 years after the last date of the veteran's internment and where that manifestation recurs on a continuous or regularly intermittent basis thereafter. The addition of this circumscribing language is designed to eliminate the presumption where the disease first appears many years after release from captivity and is therefore likely attributable to intervening causes.

Peripheral Neuropathy: A 1986 study conducted by the Livermore VAMC of 52 ex-POWs found evidence of persisting peripheral neuropathy in 25 of 32 Japanese camp ex-POWs and in 9 of 20 German camp ex-POWs. The study concluded that nutritional deficiency likely was the primary cause among the Japanese camp survivors, and that cold injury to the feet and legs likely was the primary cause (with nutritional deficiency secondary) among the German camp survivors. Exhausting forced labor also was listed as a contributing factor.

A 1985 Australian study of gastrointestinal disease among ex-POWs also found that 48.8 percent of the 170 ex-POWs examined suffered from "happy feet", a symptom of peripheral neuropathy, in contrast to only 4.1 percent of the non-POW control group. In addition, a survey of 41 former POWs treated at the Loma Linda VAMC, the results of which were published in 1987, revealed that over 30 of the men reported symptoms of peripheral neuropathy.

Dr. Theodore Woodward, a member of the Advisory Committee, testified before the House Committee on Veterans' Affairs at its June 1985 hearings that the severe malnutrition experienced by POWs frequently led to beriberi, a common manifestation of which is peripheral neuropathy.

Peptic Ulcer Disease (Peptic and Duodenal Ulcers): The 1985 Australian study of 170 former POWs (with matching controls) clinically assessed the incidence of gastrointestinal disease. The study found that duodenal ulcers -- peptic ulcers occurring in the duodenum -- were more prevalent in the ex-POW group than in the control group (24.7 percent compared to 10.5 percent). Malnutrition and extreme stress were identified as the probable causes of the increased ulcer rate. The study also cited several other non-controlled studies which also found increased rates of duodenal and other peptic ulcers. Dr. Woodward, in his testimony before the House Committee, cited the strong link between extreme stress, as experienced by POWs in captivity, and increased stomach secretions and ulcers.

Irritable Bowel Syndrome (IBS): No scientific studies have been conducted evaluating the incidence of IBS, sometimes referred to as spastic colon, among ex-POWs. However, Gastrointestinal Disease by Marvin Sleisenger and John Fordtran, one of the basic treatises on gastrointestinal diseases, in a discussion of IBS, lists stress as one of its known significant causal factors. Additionally, the Loma Linda VAMC survey found that all of the ex-POWs suffered from gastrointestinal disorders in captivity, and that 35 of the 41 still experienced such problems.

Agent Orange Scientific Evidence Review

Finally, I want to note that Senator Kerry and I, along with other Senators, soon will be introducing a legislative initiative which would provide for a comprehensive review -- by the National Academy of Sciences (NAS), or, if the NAS declines, another appropriate nonprofit entity -- of all scientific evidence, studies and literature pertaining to the health effects of exposure to Agent Orange and its component compounds, to be completed not later than October 1, 1988. This legislation would further require the submission of a report on the reviewing entity's conclusions as to the weight of the evidence regarding the health effects of human exposure to Agent Orange and its component compounds.

I have been deeply interested in this issue and have worked hard to find solutions to it since Agent Orange first came to public attention in the late 1970s. As either the Chairman or Ranking Democratic member of the Veterans' Affairs Committee, I have participated in numerous hearings and discussions on this issue, and have authored various measures in the Senate seeking to provide some solutions to the Agent Orange dilemma. These include measures enacted into law which provide, for veterans exposed to Agent Orange, first, eligibility for (in Public Law 97-72), and then later entitlement to (in Public Law 99-576), VA health care for the treatment of any condition that cannot be affirmatively related to some other cause; Public Laws 96-151 and 97-72, which provide for the VA to bring about epidemiological study of Vietnam veterans to evaluate the health effects of both their exposure to Agent Orange and their overall experience in Vietnam; and Public Law 98-542, which, among other things, required the VA to go through public rulemaking in order to develop policies for the adjudication of veterans' claims for compensation or other benefits based on their exposure to Agent Orange.

The controversy over Agent Orange has resulted in a range of studies, including those involving animal experimentation; analysis of the effect of certain herbicides on human health; and a very detailed, ongoing epidemiological study of those Vietnam veterans who presumably had the greatest exposure to Agent Orange, the Ranch Hand group of servicemen. Although the large number of studies has been necessary to gain a more complete comprehension of this issue, the end result thus far has been a rather unwieldy and ofttimes conflicting body of evidence.

Accordingly, a comprehensive study of such evidence mandated by the Congress and conducted by an independent scientific organization such as the NAS could provide an impartial and authoritative guide to the state of the science regarding the human health effects of exposure to Agent Orange and its component compounds.

Conclusion

There are obviously a great number of issues to be discussed today, all of which, if enacted into law, will greatly affect the availability and extent of VA compensation and related benefits for our Nation's veterans. The members of our Committee are very interested in the ideas and views of those appearing before us today as well as those who have submitted written testimony. I again want to thank all of our witnesses for their participatioh and help on these important matters.

STATEMENT OF SENATOR FRANK H. MURKOWSKI (R-AK)
AT THE HEARING ON COMPENSATION AND RADIATION ISSUES
JUNE 30, 1987

GOOD MORNING. I AM PLEASED TO JOIN WITH OUR DISTINGUISHED CHAIRMAN IN WELCOMING OUR WITNESSES TO THIS IMPORTANT HEARING ON LEGISLATION RELATING TO DISABILITY COMPENSATION. THIS HEARING ADDRESSES ISSUES OF CRITICAL CONCERN TO VETERANS AND THEIR FAMILIES, MANY OF WHOM MADE ENORMOUS SACRIFICES WHILE IN THE SERVICE OF OUR COUNTRY. THESE VETERANS INCLUDE ATOMIC VETERANS AND FORMER PRISONERS OF WAR.

WE LIVE IN A CHANGING WORLD AND, AS A RESULT, THE NEEDS OF OUR NATION'S VETERANS CHANGE AS WELL. IT IS, THEREFORE, NECESSARY TO CONTINUALLY ADJUST AND ESTABLISH PRIORITIES FOR SERVICES AND PROGRAMS FOR VETERANS TO REFLECT THE CHANGING NATURE OF THE WORLD IN WHICH WE LIVE. THE LEGISLATION WE ARE CONSIDERING TODAY IS PART OF THAT PROCESS.

IN MY REMARKS THIS MORNING, I WISH TO EMPHASIZE THREE IMPORTANT ISSUES.

FIRST, THIS HEARING IS A VITAL STEP IN PROVIDING A 1987 COST-OF-LIVING ADJUSTMENT FOR SERVICE-CONNECTED DISABILITY BENEFITS. NO ONE SHOULD DOUBT OUR COMMITMENT TO PROTECT

DISABLED VETERANS FROM THE EFFECTS OF INFLATION. WHILE DISABILITY COMPENSATION IS NOT INDEXED, I CAN ASSURE YOU THAT VETERANS WILL RECEIVE A COST-OF-LIVING ADJUSTMENT IF THE BENEFICIARIES OF OTHER FEDERAL PROGRAMS RECEIVE ONE.

SECOND, THE TIME HAS COME FOR THE CONGRESS TO TAKE DEFINITIVE ACTION TO ADDRESS THE CONCERNS OF VETERANS EXPOSED TO IONIZING RADIATION. THERE ARE SOME THINGS THAT WE SHALL NEVER KNOW REGARDING THEIR EXPOSURE TO RADIATION. TO INSIST THAT WE TAKE NO ACTION UNTIL WE HAVE PERFECT KNOWLEDGE IS TO INSIST THAT WE TAKE NO ACTION AT ALL. WE SHALL NEVER KNOW THE EXACT RADIATION EXPOSURE OF THE VETERANS WHO PARTICIPATED IN THE ATMOSPHERIC NUCLEAR WEAPONS TESTS AND THE OCCUPATION OF HIROSHIMA AND NAGASAKI OVER 40 YEARS AGO. WE CAN NEVER KNOW THEIR EXACT ACTIVITIES OR THE EXACT AIR AND SEA CURRENTS AT THE SITE; THE EXACT DISTRIBUTION OF DIRECT RADIATION AND FALLOUT PARTICLES; OR THE EXTENT TO WHICH INHALATION, INGESTION OR OPEN WOUNDS AFFECTED THEIR EXPOSURE LEVEL.

WHAT WE DO KNOW IS THAT THESE VETERANS WERE AT THE ATMOSPHERIC TEST SITES OR WERE INVOLVED IN THE OCCUPATION OF NAGASAKI OR HIROSHIMA WHERE OUR NATION WANTED THEM, UNDER CONDITIONS WHICH WOULD NOT BE TOLERATED TODAY. THESE VETERANS WERE ON THE FRONT LINES OF THEIR TIMES. IF THEY WERE INJURED, THEY WERE INJURED IN THE DIRECT PERFORMANCE OF DUTY. THESE VETERANS RAN REAL RISKS WHILE PERFORMING DUTY VITAL TO OUR

NATION'S DEFENSE. THEY WERE EXPOSED TO RADIATION IN THE PROCESS. SOME HAVE DIED, AND SOME ARE NOW ILL WITH DISEASES ASSOCIATED WITH RADIATION.

S. 453 AND S. 1002 RESPOND TO THESE FACTS, AND I AM COMMITTED TO THE ENACTMENT OF LEGISLATION WHICH WOULD PROVIDE ADEQUATE COMPENSATION TO VETERANS AND THEIR FAMILIES.

THIRD, I AM PLEASED TO BE A CO-SPONSOR OF S. 1365, INTRODUCED BY MY DISTINGUISHED COLLEAGUE FROM FLORIDA, SENATOR GRAHAM, WHICH WOULD FURTHER MEET THE NEEDS OF AMERICA'S FORMER PRISONERS OF WAR. FEW AMERICANS HAVE SERVED UNDER MORE STRENUOUS CONDITIONS, OR DEMONSTRATED THEIR DEDICATION TO OUR COUNTRY AGAINST HIGHER ODDS, THAN THOSE DELIVERED INTO THE HANDS OF OUR ENEMIES BY THE DICE ROLL OF COMBAT.

THIS IS AN IMPORTANT HEARING, AND I AM ANXIOUS TO HAVE THE BENEFIT OF THE TESTIMONY OF ALL THE WITNESSES.

THANK YOU, MR. CHAIRMAN.

STATEMENT OF DENNIS DECONCINI
COMMITTEE ON VETERANS' AFFAIRS HEARING
JUNE 30, 1987

THANK YOU, MR. CHAIRMAN, FOR THIS OPPORTUNITY TO ADDRESS THESE IMPORTANT ISSUES OF CONCERN TO THE AMERICAN VETERAN. I WOULD PARTICULARLY WISH TO COMMEND YOU FOR YOUR LEADERSHIP WITH RESPECT TO TWO OF THE MANY ISSUES WE HAVE BEFORE US THIS MORNING - VICTIMS OF RADIATION EXPOSURE AND SERVICE-CONNECTED PRESUMPTIONS FOR PRISONERS OF WAR. THESE PROPOSALS ARE THE PRODUCT OF A LOT OF HARD WORK BY YOU AND YOUR ABLE STAFF. I AM PLEASED TO CONSPONSOR BOTH S. 1365 AND S. 1002.

I WOULD JUST LIKE TO MAKE A COUPLE OF BRIEF COMMENTS CONCERNING THESE ISSUES BEFORE WE BEGIN THE TESTIMONY THIS MORNING. FIRST, LET ME EXTEND A WARM WELCOME TO MY DISTINGUISHED COLLEAGUE FROM ARIZONA, SENATOR JOHN McCAIN. MY ARIZONA COLLEAGUE WAS A PRISONER OF WAR IN NORTH VIETNAM. I AM PLEASED THAT HE IS ABLE TO TAKE SOME TIME AWAY FROM HIS BUSY SCHEDULE TO SHARE HIS INVALUABLE INSIGHT INTO THE CONDITIONS UNDER WHICH HE WAS KEPT AND THE CURRENT NEEDS OF THE AMERICAN POWs.

SECONDLY, I WOULD LIKE TO SAY A FEW WORDS CONCERNING ANOTHER ISSUE WHICH MANY OF MY COLLEAGUES AND ~~MYSELF~~ I HAVE ATTEMPTED TO DEAL WITH SINCE I BECAME A MEMBER OF THIS COMMITTEE - COMPENSATION FOR VETERANS INJURED AS A RESULT OF RADIATION EXPOSURE. I BELIEVE THE CRANSTON-SIMON BILL IS BEST BILL WE HAVE SEEN THIS FAR. I BELIEVE IT IS THE BEST COMPROMISE OF POSITIONS AND FINALLY GIVES THE VETERAN THE BENEFIT OF REASONABLE DOUBT. THIS POINT CANNOT BE UNDERMINED. OUR SYSTEM OF AMERICAN JUSTICE DEMANDS ACCOUNTABILITY FROM ALL, INCLUDING THE FEDERAL GOVERNMENT. TO CONTINUE TO DENY THESE BRAVE MEN AND WOMEN COMPENSATION WHEN THE GOVERNMENT ITSELF IS RESPONSIBLE FOR POORLY RECORDING THE EXPOSURE LEVELS FOR THESE INDIVIDUALS WOULD BE A TRAVESTY OF JUSTICE. THE EVIDENCE BEFORE US IS CLEAR. AGAIN, I AM PLEASED TO COSPONSOR S. 1002.

THANK YOU, MR. CHAIRMAN.

STATEMENT OF SENATOR JOHN D. ROCKEFELLER IV
SENATE VETERANS' AFFAIRS COMMITTEE
JUNE 30, 1987

Thank you, Mr. Chairman, for having brought the issue of atomic veterans compensation to the fore in this session of the 100th Congress. Your efforts and the efforts of the distinguished ranking minority member, Mr. Murkowski, have brought this Committee a long way since the first hearings were held on this subject in November 1985.

Anyone who has taken the time to study the issue of radiation exposure among our veterans and the links between that exposure and certain cancers knows that this is not an easy subject. But it is vitally important to the many men and women who, while serving their country, were exposed to varying levels of radiation -- in Japan, in the Pacific, and in Nevada.

One reason this subject has been made so difficult is the lack of consensus in the medical and scientific community about the precise causal relationship between radiation exposure and the appearance of certain cancers. But what is very clear to me on the human level is that veterans have been affected by radiation exposure -- and they deserve our careful attention and due compensation. As they grow older -- and the last such nuclear test occurred 25 years ago -- they can not afford to wait much longer for a response from their government.

I have been very moved by the accounts relayed to me by atomic veterans in my state of West Virginia . The West Virginia Chapter of the National Association of Atomic Veterans has over 100 members now struggling to receive recognition and just compensation. They have made me keenly aware of the sense of urgency they attach to the resolution of this issue.

I am convinced that the legislation crafted by Senator Cranston -- with the able assistance of the Committee staff [redacted] -- answers their concerns in a fair and humane manner. S. 1002 identifies a wide-range of radiation-related cancers and assigns their probability of causality in three categories. I believe that this legislation represents an honest attempt to do justice to a very complex and urgent problem -- and it leaves the door open for refinement down the line as we learn more about the relationship between radiation exposure and cancer. I intend to work hard to assure its early passage. We cannot wait any longer.

I also want to note, Mr., Chairman, that atomic veterans in my State point to the gross inequity embodied in the so-called Warner Amendment which denies them the ability to sue contractors involved in nuclear testing for damage sustained as a result of that testing. I am proud to co-sponsor legislation aimed at reversing the Warner Amendment. I believe that that that action -- along with passage of the Cranston Bill S. 1002 -- will go a long way in providing just recourse and compensation to the many brave men and women who were dangerously exposed to nuclear radiation in the course of duty to their country. Thank you.

OPENING STATEMENT ON ISSUES RELATING TO COMPENSATION

BY SENATOR SPARK M. MATSUNAGA

Senate Veterans' Affairs Committee

SR-418

8:45am, June 30, 1987

Thank you, Mr. Chairman.

Good morning, everyone. I'd like to express my thanks and extend a warm welcome to the many witnesses who have kindly agreed to testify before this Committee today, including several of my colleagues (Senators Kerry, McCain, and Pryor); Veterans' Administration representatives; and, the many Service Organizations representatives.

Since we have so much ground to cover this morning, I will be very brief.

First, let me express my support for S.9, the general compensation legislation which Chairman Cranston introduced with myself, and Senators DeConcini, Mitchell, Rockefeller, Graham, and Lautenberg earlier this year. As well as any, I think this bill demonstrates our continuing commitment to preserving and improving the entitlements of this nation's veterans. As you know, among other things, the bill provides disability compensation and DIC COLAs equal to social security and VA pension benefits COLAs; significantly increases grants to severely disabled veterans for the purchase of cars, vans, and homes; almost doubles the burial allowance, restoring past inflation losses by 74%; and, permanently protects vocational rehabilitation, dependent education assistance, and other programs from the Gramm-Rudman meat axe. I am happy to say that at least one of the provisions originally incorporated in this measure--permanent authorization of the New GI Bill--has proceeded on a separate track and is now law. I hope the remaining provisions fare as well.

Second, with regard to S.1002, the Veterans' Radiation Exposure Disability and Death Benefits Act, introduced by Chairman Cranston and Senator Simon, of which I am a cosponsor, I believe that it is the fairest and most comprehensive radiation compensation bill introduced in Congress to date. Given the impossibility of technically and legally substantiating an individual veteran's level of radiation exposure from atomic testing, and the scientific difficulties in establishing an ironclad relationship between radiation exposure and a particular veteran's disability, such legislation is absolutely necessary. Because time is running out on the 225,000 veterans and their survivors who are potential beneficiaries of this bill, Congress must act quickly on this legislation. I have high hopes that such will be the case this year, since the Ranking Minority Member, Senator Murkowski, whom I commend for his initiative, has also authored legislation to provide presumptive relief to atomic veterans. I remain hopeful that, with the spirit of bipartisanship which prevails in this Committee, legislation affording adequate relief to radiation victims will emerge from this session of the 100th Congress.

On the same subject, although it is not on this hearing's agenda, I also have hopes that S.612, Senator Simon's bill to repeal the Warner Amendment which denies atomic veterans' the right to seek redress in court from defense contractors, can also be enacted this year. The hearings held on this issue by this Committee during the last Congress convinced me that atomic veterans deserve the same recourse to the courts as other members of our society.

Third, I would like to thank Senator Kerry for legislation he is proposing calling for a literature review of the highly complex Agent Orange issue. Although some would tend to believe that, with the settlement of the successful $200 million court case for Agent Orange victims, the [illegible] tragic victims of the herbicide are no longer of concern to the nation, Senator Kerry's bill reminds us that there are many outstanding questions which still need to be answered about these veterans. A new, comprehensive review of the evidence regarding the health effects of Agent Orange on humans by a competent, unbiased, scientific organization will help to clarify a number of important issues. Consideration of this measure demonstrates this Committee's continued concern for the welfare of this large and unfortunate group of veterans.

Fourth and finally, I would like to express my support for S.1365, a bill introduced by Senator Graham to add three more presumptions of illness (peripheral neuropathy, peptic ulcer disease, and irritated bowel syndrome) to the twelve already listed in Title 38 as diseases which can be attributed to wartime internment and thus treatable by the VA. I wish to commend the Senator from Florida for his commitment not just to veterans, but to our small, but not forgotten, population of former prisoners-of-war. It is worth noting that while Senator Graham is one of the newest members of this Committee and of Congress, one of our most senior members, Senator Thurmond, took the lead on this same topic last year. I believe this says something about this Committee's commitment to veterans.

Thank you, Mr. Chairman, for this opportunity to indicate my full commitment to these measures, and my continuing support for the earned benefits of the American veteran.

A summary of pertinent information follows for each of 30 claims allowed based on radiation exposure. Our research revealed two cases allowed on the basis of radiation exposure prior to our commencing to keep records and statistics on such claims.

DATES AND TYPE OF RADIATION EXPOSURE	DISEASE HELD TO BE RESULT OF EXPOSURE	DATE DISEASE MANIFESTED	RADIATION DOSAGE	% COMPENSATION FOR DISEASE DUE TO EXPOSURE
1. Atmospheric test (1955)	Basal Cell Carcinoma	1978	2.0 REM GAMMA 1.5 REM NEUTRON	10%
2. Atmospheric test (1946)	Adenoma of Thyroid, postop.	1954	3.52 REM GAMMA	0%
3. Atmospheric test (1955)	Chronic granulocytic leukemia	1979	0.43 REM GAMMA	None-DIC
4. Atmospheric test (1952)	Acute myelogenous leukemia	1973	0.104 REM	None-No running death award
5. Atmospheric test (1946)	Cataracts	1977	0.280 REM GAMMA	100%
6. Atmospheric test (1954)	Hairy cell leukemia	1976	1.925 REM GAMMA	None-DIC
7. Atmospheric test (1958)	Acute myelogenous leukemia	1977	0.910 REM	None-DIC
8. Atmospheric test (1946)	Chronic myelogenous leukemia	1973	80 MREM GAMMA	None-DIC
9. Atmospheric test (1955)	Granulocytic leukemia	1970	20,000+ milliroentgens	None-DIC
10. Atmospheric tests (1954 and 1957)	Chronic granulocytic leukemia	1971	No Record	None-DIC
11. Atmospheric test (1957)	Hairy cell leukemia	1976	755 MR GAMMA 84 MREM BETA	100%

DATES AND TYPE OF RADIATION EXPOSURE	DISEASE HELD TO BE RESULT OF EXPOSURE	DATE DISEASE MANIFESTED	RADIATION DOSAGE	% COMPENSATION FOR DISEASE DUE TO EXPOSURE
12. Atmospheric test (1954)	Hypothyroidism	1976	1,755 MREM	10%
13. Atmospheric test (1956)	Adenocarcinoma of lung w/metastases	1977	800 MREM	None-No running death award
14. Atmospheric test (1958)	Lymphocytic lymphoma	1973	3,445 MREM	None-DIC
15. Atmospheric test (1955) Radiation Therapy (1957)	Acute myelomonocytic leukemia	1975	195 M-roentgen (1955) 3,600 RADS (1957)	None-DIC
16. Atmospheric test (1951)	Basal cell carcinoma	1960	9.665 REM	None-No running death award
17. Atmospheric test (1945)	Acute myelomonocytic leukemia	1970	NO RECORD	None-No running death award
18. Atmospheric test (1953)	Chronic granulocytic leukemia	1977	6.5 REM	None-DIC
19. Atmospheric test (1956)	Myelocytic leukemia	1977	4.5 REM	None-DIC
20. Atmospheric test (1951)	Malignant Lymphoma, mediastinum	1974	3.72 REM	None-DIC
21. Atmospheric test (1954)	Vitiligo	1956	NO RECORD	10%
22. Atmospheric test (1953)	Anxiety Neurosis	1979	2.0 REM	10%
23. Atmospheric test (1958)	Acute monomyeloblastic leukemia	Not of Record	1,870 MREM	None-DIC
24. Atmospheric test (1953)	Basal cell carcinoma	1969	0.65 REM GAMMA 0.001 REM NEUTRON	10%
25. Atmospheric test (1954)	Radiation burn scars	1980	4.73 REM	0%

DATES AND TYPE OF RADIATION EXPOSURE	DISEASE HELD TO BE RESULT OF EXPOSURE	DATE DISEASE MANIFESTED	RADIATION DOSAGE	% COMPENSATION FOR DISEASE DUE TO EXPOSURE
26. Atmospheric tests (1958 and 1962)	Carcinoma of lung	1983	12.780 REM	None-DIC
27. Radiation Therapy (1945)	Basal cell carcinoma	1985	NO RECORD	0%
28. Atmospheric test (1955)	Skin cancer	1984	11.54 REM GAMMA	0%
29. Radiation therapy (1954)	Carcinoma of colon	1984	57,600 R (AIR)	None-DIC
30. Atmospheric test (1954)	Carcinoma of esophagus	1970	2.33 REM	None-DIC

STATEMENT OF R. J. VOGEL
CHIEF BENEFITS DIRECTOR
VETERANS ADMINISTRATION
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS
JUNE 30, 1987

Mr. Chairman and Members of the Committee:

It is my pleasure to present the views of the Veterans Administration on the various bills on the agenda. I will first address the measures that represent VA initiatives and then comment upon S. 9, S. 1365, S. 453, and S. 1002. My remarks will focus upon the more salient features of the items under discussion.

Our principal initiative, which was introduced on April 7 as S. 940, would provide automatic increases in the rates of service-connected disability compensation for veterans and Dependency and Indemnity Compensation (DIC) payable to their surviving spouses and children. In addition, the bill would:

- o improve the standards for VA recognition of foreign adoptions;

- expand the "fire insurance" income exclusion to include comparable payments received from other sources;

- extend Reinstated Entitlement Program for Survivors (REPS) coverage to survivors of veterans who are in receipt of the equivalent of Social Security benefits under 38 U.S.C. § 412;

- authorize the uniformed services to deduct by offset from military retired or retainer pay a veteran's indebtedness to the VA;

- authorize the VA to offset from disability compensation or pension to collect overpayments of military retired or retainer pay; and

- authorize the VA to require the disclosure of claimants' and dependents' Social Security numbers in all claims for disability and death benefits.

S. 940 would authorize automatic annual increases in disability compensation and DIC payments based upon changes in the Consumer Price Index (CPI). Tying these payments to the CPI would assure veterans and their survivors that they would receive full increases commensurate with inflation, in a timely manner. It would also free Congress from the time-consuming annual routine of considering new cost-of-living-adjustment (COLA) legislation.

Regarding foreign adoptions, our proposal would require proof that, prior to the adoption, the child was orphaned by the deaths of both parents or the child was properly committed to and recommended for adoption by a government child-welfare agency or a duly-licensed child-placement agency. S. 940 would further Congress' objective, expressed in prior legislation, to combat foreign adoption abuses, as well as simplify claim development and improve uniformity in handling claims based on adoption.

The bill would exclude from income computations for parents' DIC and pension purposes the proceeds received to replace or restore the value of real or personal property damaged, destroyed, or lost due to any cause. In this way, it would promote equity by extending the present "fire insurance" exclusion to other casualty losses.

Our proposal would also achieve equity by extending REPS coverage under the Social Security Act to survivors of veterans who are in receipt of benefits under 38 U.S.C. § 412 in lieu of Social Security benefits. The measure would further congressional intent, expressed in the enactment of section 412, to place total benefits payable to survivors of veterans who lacked full Social Security coverage on a par with those of survivors of fully-insured veterans.

Finally, S. 940 would facilitate the proper administration of Government benefit funds. This worthy goal would be accomplished by providing reciprocal authority to the Department of Defense and the VA to collect, by offset against such benefits paid by the other agency, overpayments of military retired and retainer pay and veterans' disability compensation and pension. In addition, the mandatory disclosure of claimants' and dependents' Social Security numbers would assist the Agency in its duty to curtail fraud and prevent unwarranted dual payments of benefits.

The second VA measure, S. 917, would authorize a headstone allowance for prepurchased grave markers, limit eligibility for the plot allowance to veterans entitled to disability compensation or pension and to certain institutionalized veterans, repeal certain funding limits pertaining to the State cemetery grant program, and exempt certain national cemetery land at Wood, Wisconsin, from the upright grave markers requirement.

Our proposal recognizes the increasing popularity of prepaid funeral arrangements, including the prepurchase of memorials. By authorizing the payment of the headstone or grave marker allowance to the estate of a deceased veteran who purchased the memorial prior to death, the bill would remove the disincentive to prepurchase memorials under current law and relieve survivors of a financial burden.

With respect to the plot allowance, our proposal would focus VA benefit payments on veterans in genuine financial need. By limiting eligibility for the allowance to service-disabled veterans, pensioners, and certain institutionalized veterans, the bill would better realize the original intent of the plot allowance program and reconcile the differences in eligibility criteria between the burial allowance and the plot allowance.

In addition, S. 917 would repeal section 1008(b)(1) of title 38, United States Code, which provides that no State may receive cemetery grants in any fiscal year in an amount in excess of 20 percent of the total amount appropriated program-wide for that fiscal year. Although the statute was enacted to prevent a State from receiving a disproportionate share of Federal funds, in practice the provision may lead to unintended results such as the lapse of needed carry-over appropriations.

Finally, our measure would permit the use of flat grave markers in certain newly-acquired sections of the Wood National Cemetery, where we believe upright grave markers would be inappropriate.

A third package of VA legislative initiatives, reflected in S. 1090, would increase the amount of monthly payments to annuitants under specified VA insurance programs, exempt premiums collected under the Servicemen's (SGLI) and Veterans' Group Life Insurance (VGLI) programs from taxation by State and other governmental authorities, and allow the VA to assume all administrative functions under the Veterans' Mortgage Life Insurance (VMLI) program.

Our proposal would authorize the Administrator to periodically adjust, when prudent, the payments to annuitants under the United States Government Life Insurance, National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance programs. In this manner, the VA would achieve a fair and actuarily sound distribution of the excess gains accumulated in the annuity reserves.

Equity would also be served by the enactment of a State tax exemption for SGLI and VGLI premiums. A State tax exemption would reduce expenses of program administration and directly benefit the insured members whose premiums cover the administrative expenses as well as claim costs. It would also resolve the existing disparity in tax treatment between SGLI/VGLI insureds and their civilian counterparts, Federal Employees Group Life Insurance insureds, whose premium payments are exempt from State taxation.

Lastly, S. 1090 would authorize the Agency to assume the administrative functions of the VMLI program, which provides automatic mortgage life insurance to disabled veterans who receive VA assistance in obtaining specially-adapted housing. It would also authorize funding of VMLI payments through the "Veterans Insurance and Indemnity" appropriation rather than through the "Burial Benefits and Miscellaneous" appropriation. The proposal would reduce costs and enhance program efficiency without impairing veterans' rights under the terms of the insurance coverage.

A final measure introduced at the VA's request, S. 919, would authorize the Administrator to fund improvements on non-VA property adjacent to national cemeteries in order to provide safe ingress and egress at those cemeteries. Similar authority is already provided in title 38 with regard to VA medical centers. Minor improvements have been made at some locations using an administrative waiver procedure. However, legislative authority for this purpose would be much more straightforward and would clarify the appropriateness of more significant expenditures.

Turning to other legislation before the Committee, S. 9 would increase the statutory rates of service-connected disability compensation, including the special clothing allowance for certain severely-disabled veterans, and DIC payable to surviving spouses and children of veterans, by indexing the rates to this year's Social Security cost-of-living adjustment. Among other things, the bill would also expand eligibility for educational and rehabilitation assistance available to beneficiaries with alcohol or drug dependence, extend or establish exemptions from sequestration for specified veterans' benefits, and increase benefits under VA's housing, automobile, and burial-assistance programs.

With respect to the indexing of disability compensation and DIC payments to the Social Security COLA, the VA generally supports legislation that would safeguard benefits from the erosive effects of inflation. However, we believe the policy evident in S. 9 may best be effectuated by legislation that would provide for an automatic annual increase in compensation rates indexed to the periodic increases in the cost of living. The advantages of tying disability compensation and DIC rates to the CPI have already been discussed. Although we do not oppose the one-time-only indexing provisions of S. 9, this Agency believes the direct permanent indexing of benefit rates to the annual CPI adjustments would be the preferable approach to ensure full and timely increases.

S. 9 would also increase the benefits payable under the specially-adapted housing grant program, funeral and burial allowances for veterans who die due to service-connected disabilities, and the automobile assistance allowance for severely-disabled veterans. The VA recognizes a duty to consider periodic adjustments in the maximum payments available under these important programs to keep pace with changes in the cost of the underlying items. However, as the current benefit levels for both specially adapted housing grants and automobile assistance allowances were increased as recently as 1985, we do not support adjusting payment levels for those programs at this time.

Additionally, we do not support raising the maximum burial benefit for service-connected deaths. Although the service connected are our highest priority, the Administration considers it inappropriate to increase burial benefit levels while facing such large deficit-reduction targets.

The VA opposes those portions of S. 9 that would alter eligibility requirements for educational and vocational-rehabilitation assistance. We perceive no compelling reason for exempting educational-assistance criteria from VA's longstanding rule on willful misconduct. Further, the bill may raise insurmountable proof problems for adjudicating claims due to the nature of alcohol and drug abuse and the lack of consensus in the medical community on the medical issues involved in these claims. Finally, we believe that existing provisions of law are adequate for considering the effects of alcohol or drug dependence in determining a veteran's entitlement to vocational-rehabilitation assistance.

Concerning sequestration of VA funds, it is important to note that the Balanced Budget Act already provides special protection to disability compensation and pension recipients, whose very survival may depend on the receipt of monthly benefits, and for overall VA health-care expenditures. Further preferential treatment for VA beneficiaries, though well intentioned, may generate requests for similar treatment among competing interests, erode public support for the Act, and undermine the broad-based nature of the Act, which is crucial to its effectiveness. The Act's deficit-reducing provisions are designed to benefit all Americans, including veterans. For these reasons, we are unable to support further efforts to exempt VA programs or activities from sequestration under the Balanced Budget Act.

S. 1365 would expand veterans' benefit eligibility for former prisoners of war by adding peripheral neuropathy, irritable-bowel syndrome, and peptic ulcers to the statutory list of medical conditions for which service connection may be presumed if manifested to a compensable degree following service.

At the outset, we are mindful of the realities of the repatriation process and the initial tendency of many former POWs to put aside the traumatic experiences engendered by captivity. Their impelling desire to be reunited with their families and friends as soon as possible may have resulted in the neglect of medical evaluations and thereby hindered the development of evidence to substantiate disability claims in future years.

We must also keep in mind that statutory presumptions are not conclusive, but rebuttable by evidence of record establishing that the conditions claimed are unrelated to service. Thus, we believe that there is little likelihood that spurious claims for service connection would be successful.

While we have reservations concerning the disabilities proposed under this bill, I want to make clear that an expansion of the number of presumptive diseases would have only a minimal effect on adjudicative activity. The disabilities specified in S. 1365 ordinarily would become manifest and require treatment upon repatriation or shortly thereafter. Therefore, it is probable that claims involving these conditions would have been granted on a "direct" basis by the VA upon review of the available medical evidence. Further, VA's policy is to treat claims of former POW's in a liberal manner, giving special consideration to the hardships and privations they have endured. Of course, we also resolve all reasonable doubt in their favor.

Our principal reservation concerning this bill is that the medical conditions enumerated do not lend themselves to a presumption of service connection. Irritable bowel syndrome is a functional disorder of unknown etiology and pathogenesis. Similarly, we are unaware of any substantive medical justification for presuming service connection for former POW's in the case of peptic ulcer disease. Peripheral neuropathy is the type of disability that would likely be identified shortly after discharge from service, regardless of the vagaries of the repatriation process. For those reasons, we cannot support enactment of S. 1365.

S. 453 and S. 1002 would provide disability and death benefits for veterans and their survivors for certain radiogenic diseases manifested within specified periods of time following a veteran's participation in nuclear testing or the American occupation of Hiroshima and Nagasaki prior to July 1, 1946. In addition, the bills would require the VA, in adjudicating certain radiation claims, to increase the dose estimates provided by the Defense Nuclear Agency (DNA) pursuant to Public Law 98-542.

The VA is committed to assuring that the health concerns of radiation-exposed veterans are responsibly addressed. We have implemented a free, comprehensive program of medical care for atomic veterans and special procedures to ensure the careful consideration of their compensation claims on the basis of the best available evidence. The measures under discussion, however, would mark a radical departure from this reasoned approach that is not justified by accepted scientific knowledge and, as a result, would seriously undermine the legitimacy of our compensation programs.

It is notable that the VA already has broad authority under present law to grant benefits for the radiogenic diseases in question. Some 28 claims have been allowed to date based on radiation exposure in service, exclusive of claims by atomic veterans granted on the basis of direct or presumptive service connection. Further, the Agency may revise its regulations, when appropriate, to reflect the latest scientific thought on the cause of a disease or its association with the circumstances of service.

All authoritative scientific evidence indicates that the vast majority of atomic veterans received very low doses of radiation. Film-badge data show that 42% of weapons-test participants received no dose whatsoever, and the average for the entire group was only .5 rem. Fewer than 1% received doses exceeding 5 rems, which under current Federal guidelines is the annual allowable exposure for radiation workers.

The doses for members of the occupation forces were even more negligible, such that a worst-case analysis formulated by DNA shows that no veteran could have sustained exposure of more than 1 rem. Overall, these doses fall near the range of the average annual dose received by the general population from natural background sources and routine medical procedures.

Reliable studies suggest that the excess health risks from these low doses are infinitesimally small. For example, the lifetime risk of death from cancer in the general population is some 16% or 17%, so that we might expect 32,000 to 34,000 deaths from cancer will eventually occur in any population of 200,000 (roughly the number of veterans who participated in the weapons tests). A radiation exposure of .5 rem for this population would only, it is widely accepted, increase the number of cancer deaths by at most ten excess cases of cancer (above the 32,000 to 34,000 "naturally occurring" ones). The issue really becomes whether the Federal government should presume that all 32,010 eventual cancers among this group of veterans should be compensated for in order to assure that the ten possible excess cases related to service are covered, or whether it is better public policy to look at each case individually to separate the more deserving claims from those less deserving. We believe the only responsible approach is the latter.

We are concerned that the inclusion of significant numbers of veterans on the benefit rolls whose disabilities are not truly traceable to service will undermine the principles of VA benefit programs, cause public support to erode, and invite a harmful backlash.

We are also concerned that S. 453 and S. 1002 may not be defensible on substantive due process grounds. Whereas the bills focus on weapons-test participants and the occupation forces, they exclude all other veterans who may have been exposed to equal amounts of radiation from other sources. Literally every servicemember was exposed to natural background radiation during service and to man-made forms of ionizing radiation, such as medical and dental X-rays.

Finally, we object to those sections of the bills that would require the VA, in adjudicating radiation claims, to double or otherwise increase the dose estimates provided by the Defense Nuclear Agency. These provisions arbitrarily denigrate the years of work performed by DNA in painstakingly tabulating and reconstructing dose data. In a 1985 report, the National Research Council of the National Academy of Sciences approved DNA's gamma dose-calculations. We are aware of a General Accounting Office (GAO) report that is somewhat critical of DNA's assessment of doses from "Operation Crossroads." However, we are also mindful of DNA's conclusion that even if GAO's critique were valid, which DNA disputes in many respects, the overall dose estimates from "Operation Crossroads" would have varied by only 10% from DNA's calculations.

VA's regulation governing radiation claims provides ample flexibility to assess doses in adjudicating claims. We perceive no justification for adopting the dose-adjustment provisions of these bills, and question whether the proposals would enhance the accuracy or credibility of dose estimates.

We emphasize that the Agency has in place procedures to grant benefits for radiation claims based on sound scientific or medical evidence. The enactment of S. 453 or S. 1002 would be a serious retreat from the principle that benefit eligibility should be based on disability incurred in service. Accordingly, we strongly oppose these measures.

This concludes my prepared statement.

STATEMENT OF THE HONORABLE JOHN McCAIN
BEFORE THE SENATE COMMITTEE ON VETERANS' AFFAIRS
JUNE 30, 1987

Mr Chairman, I would like to take this opportunity to thank you, the ranking Minority Member, Sen. Murkowski, and the members of the Veterans Affairs Committee for your continued efforts on behalf of our nation's veterans. I would also like to thank my colleague, Senator Graham, for introducing this legislation of vital importance to many Ex-POWs.

All through our history, America has served as a beacon to others; serving as a source of political inspiration, a haven for the poor and oppressed and a friend to nations in times of need. But our efforts to defend with our lives, certain inalienable rights and liberties for all people, wakes us to the realization that the price of freedom can be very high indeed.

Those veterans of military service who have had the misfortune of being held in captivity by our adversaries in war, defended our nation under the most arduous conditions. Our country's prisoners of war fought with great courage and skill against enormous odds and tenacious enemies. From Andersonville to Bataan to the Hanoi Hilton, American POWs have exhibited truly Herculean character. But just as they were willing to give their all for our nation, so must we be willing to "care for him who shall have borne the battle."

There are many powerful and searing accounts of courage, heroism, and ingenuity in the face of multiple tortures, starvation, and the ever present loneliness. And suspicions of harsh confinement notwithstanding, most who returned from years of imprisonment *seemed* to be in good health, both physically and spiritually. But nothing could appear more deceiving.

In an effort to put their experiences behind them and reunite themselves with their families, many former prisoners of war did not submit to thorough medical examinations upon their repatriation and subsequent discharge from the military. This was especially true of those former POWs from World War II and Korea. In fact, this was one of the reasons why in July 1983, the Veterans Administration's Department of Medicine and Surgery established a standard protocol for obtaining the history and medical evaluation of ex-POWs. But, there is still a need that exists.

Many of the estimated 80,000 former prisoners of war that are still alive are quietly enduring the pain of a variety of ailments that have a direct causal relationship to their experiences while in captivity. While I am pleased that S. 1365 addresses three of these disorders and provides presumptive compensation for peripheral neuropathy, irritable bowel syndrome, and peptic and duodenal ulcers, I do not believe the restrictive language regarding manifestation of the condition within 10 years after the last date of the veteran's internment is necessary.

Mr. Chairman, by the V.A.'s own admission they are cognizant that the initial tendency of many ex-POWs to put aside their traumatic experiences hindered the development of evidence to substantiate disability claims in future years. And we are all well aware that statutory presumptions are not conclusive, but refutable by evidence that establishes the conditions claimed as unrelated to service. Additionally, officials at the V.A. have stated if presumptive compensation were established for the preceding three maladies, they do not believe bogus claims for service connection would be successful. Therefore, I would hope that you would amend S. 1365 by removing the ten-year manifestation period and adopt language similar to that recently incorporated in H.R. 1544.

[illegible]

There is another vital issue regarding the merits of S. 1365 and H.R. 1544 that is of major importance to the leadership of the American Ex-Prisoners of War. But I believe I will defer to their knowledge and experience in expressing this concern, and trust you will acknowledge the merits of their claim.

In closing, I again wish to thank all of you for the support you have rendered our veteran community. We owe all of our veterans of military service a special debt of gratitude. It has been their commitment and selfless devotion that has helped our great nation persevere through more than two centuries of struggle. We will never really know the doubt, the loneliness, nor the hardship these individuals experienced, but bravely faced. However, I believe I speak for all Americans when I say our veterans efforts and conviction to duty-honor-and country, are appreciated more than they could possibly know. Let us pray, however, that no other generation of Americans will ever have to share their experiences nor repeat their sacrifices.

Statement of

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by

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JOHN F. SOMMER, DEPUTY DIRECTOR
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THE AMERICAN LEGION

before the

COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE

on

VA COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION,
PENSION, RADIATION EXPOSURE BENEFITS, FORMER PRISONER
OF WAR COMPENSATION, AND OTHER BENEFITS LEGISLATION

June 30, 1987

STATEMENT OF JOHN F. SOMMER, JR., DEPUTY DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE
June 30, 1987

Mr. Chairman and Members of the Committee:

The American Legion appreciates this opportunity to present its views on the several legislative initiatives that are on today's agenda, and to offer for the consideration of the Committee an alternative proposal relating to the establishment of presumptions for radiogenic diseases that are incurred by Atomic Veterans.

The first measure we shall address is S. 9.

Section 2 of this bill would provide that disability compensation and dependency and indemnity compensation cost-of-living adjustments effective December 1, 1987, would be equal to those provided for VA pension and Social Security recipients.

The latest increase in the monthly rates of disability compensation, DIC and related benefits was a 1.5 percent COLA provided under PL 99-576, effective December 1, 1986. The American Legion is strongly supportive of annual adjustments in service-connected disability and death benefits to allow the beneficiaries of these benefits to keep pace with the increasing costs of goods and services. It has long been our position that the increases should be consistent with increases in the Consumer Price Index.

However, Mr. Chairman, The American Legion is opposed to permanently indexing the compensation and DIC COLAs to Social Security as has been done with the nonservice-connected disability pension program. We feel that annual hearings on legislation to provide increases in these benefits provide the opportunity to address other related issues of great importance, such as presumptive periods for certain diseases, changes in special monthly compensation, etc.

Section 3 of S. 9 calls for an amendment to chapter 21 of the title, that would provide a 12.5 percent increase, from $35,000 to $40,000 in the maximum amount payable in specially adapted housing assistance to certain veterans with permanent and total disabilities. This section would also increase by the same percentage, from $6,000 to $6,750, the maximum amount payable in adapted housing assistance to certain veterans who suffer from service-connected blindness or who have suffered the loss or loss of use of two upper extremities.

The last increase in these important benefits for severely disabled veterans was set forth in PL 98-543, effective January 1, 1985, and The American Legion supports the proposed increases set forth in this section.

Section 4 calls for an amendment to section 907 of title 38, to provide that the maximum burial and funeral expense award in the case of a service-connected death shall be increased $1,100 to $2,250. According to the introductory language, information secured from the National Funeral Directors Association based on a recent study shows that the cost of an average adult funeral was $2,745 in 1986. In 1978, when the maximum burial allowance for a service-connected death was increased to $1,500, the average cost of an adult funeral was $1,348. Based on this data, The American Legion supports the increase set forth in section 4.

Mr. Chairman, while we are discussing the issue of service-connected burial benefits, we would like to take this opportunity to also set forth The American Legion's position, and rationale therefore, on the nonservice-connected burial allowance. The authorization for payment of burial allowance upon the death of a nonservice-connected veteran originated with the enactment of the "World War Veterans Act of 1924", and the purpose for this allowance was to enable the survivors or next of kin of the deceased veteran to arrange a funeral and burial consistent with the dignity and esteem in which war veterans were and are held. Prior to severe restrictions being placed upon the program, burial allowance was payable regardless of the income or social standing of the veteran at the time of death. In the case of many veterans it was the only benefit that was ever sought from the Veterans Administration. The American Legion feels that Congress made a mistake in restricting this allowance, and the Delegates to the 1986 National Convention approved Resolution No. 496 (California) that mandates the organization to sponsor and support legislation to restore the payment of burial allowance to all veterans; and to increase the burial allowance for veterans to $400. As a result of this resolution, H.R. 2451 was introduced in the House of Representatives at the request of The American Legion.

Section 5 of S. 9 would amend chapters 30,31,32,34 and 35 to provide an extension of delimiting periods in the case of veterans and other eligible persons who were prevented from using their education or vocational rehabilitation entitlement under title 38 as a result of alcohol or drug dependence or abuse.

As in the past, when similar provisions have been considered by this Committee, we strongly support the intent of section 5. The American Legion believes that this change is long overdue, and that now is the time to remove the stigma that has been attached to the disease of alcoholism by Veterans Administration regulations which label the acquisition of this condition as willful misconduct. Alcoholism is innocently acquired through the legal and socially acceptable practice of consuming alcoholic beverages. However, VA has continued to persevere, as the only Federal agency that has not recognized alcoholism as a disease.

Section 6 of this measure would amend section 1810(c) of title 38 by increasing the maximum amount guaranteed by the Veterans Administration on home loans from $27,500 to $36,000.

As stated during the hearing of June 17, The American Legion supports this proposal because it would allow more veterans in areas where housing costs are high to use their VA loan entitlement, and it would make the program more attractive to lenders.

Section 7 would provide for an increase in the maximum amount of the automobile assistance allowance payable under section 1902(a) from $5,000 to $5,530.

The American Legion, cognizant of increasing automobile costs, supports this proposal.

The final provision of this measure, section 8, would provide a permanent exemption from sequestration under Gramm-Rudman for vocational rehabilitation for service-connected veterans, and education benefits for survivors and dependents of deceased or totally disabled veterans under chapters 31 and 35 respectively. This section would also exempt the loan guaranty program under chapter 37.

Mr. Chairman, The American Legion is totally supportive of this section. However, one important program that is not included for exemption from sequestration, but which The American Legion strongly feels should be, is the educational assistance allowance under chapter 34. Any reduction in the rates payable under this program will undoubtedly have a dilatory effect on the educational goals of most Vietnam veterans who are entitled to receive these readjustment benefits. Those veterans who depend entirely on this stipend could be forced to discontinue their program of education or training altogether.

The Vietnam war officially ended twelve years ago, and the majority of veterans who desired to continue their educations or receive specialized training have already done so. The Vietnam veterans who are now pursuing their education and training under chapter 34 are, for the most part, those who have undergone readjustment problems following separation from military service, or who have been faced with severe economic problems because of unemployment and other factors.

The American Legion is extremely concerned about the impact that any reduction in funding in education benefits will have on the ability of these veterans to pursue the career development needed to enter the employment field in competition with those individuals who did not serve in the Armed Forces.

The next two measures scheduled for consideration would, in various ways, change the manner in which ionizing radiation exposure cases are adjudicated by the Veterans Administration.

Veterans who were exposed to ionizing radiation during their participation in nuclear weapons testing while serving on active military duty, or during service with the occupation forces in Hiroshima and Nagasaki following World War II, continue to find it exceedingly difficult to receive favorable determinations on their disability compensation claims from the Veterans Administration. Obviously, that is the reason why this legislation was introduced, and The American Legion applauds the fact that this Committee has moved forward to consider the measures under deliberation.

S. 453 - would amend sections 312 and 333 of title 38, by adding a new subsection that would establish for the purpose of wartime and peacetime disability compensation, in the case of any veteran who, while serving on active duty, was exposed to ionizing radiation as a result of the veterans participation in the atmospheric detonation of a nuclear device; or the American occupation of Hiroshima and Nagasaki, Japan, prior to July 1, 1946, that the following diseases shall be considered to have been incurred in or aggravated by the veteran's participation in that activity, notwithstanding that there is no record of that disease during the period of active duty:

(A) all forms of leukemia, except chronic lymphatic leukemia, becoming manifest within 30 years after the last date on which the veteran participated in that activity;

(B) liver cancer becoming manifest 5 or more years after the last date on which the veteran participated in that activity; and

(C) multiple myeloma or cancer of the bone marrow becoming manifest 5 or more years after the last date on which the veteran participated in that activity.

These presumptions would also apply in the case of wartime and peacetime death compensation.

Section 3 of this measure would amend the Veterans Dioxin and Radiation Exposure Compensation Standards Act as set forth in 38 USC 354. The amendment would consist of a new section 10 which would relate to the treatment of radiation dose estimates. The section would provide that for the purpose of adjudicating a claim for compensation or DIC, submitted by an Atomic Veteran or a survivor of that veteran, on the basis of exposure to ionizing radiation, the Veterans Administration shall deem the radiation dose estimate transmitted in the case by the Defense Nuclear Agency or any other appropriate office of the Department of Defense to be two times the estimated dose.

S. 1002 would establish a compensation program independent of title 38 for death and disability attributed to radiation exposure. Compensation and dependency and indemnity compensation payments would be made at two rates - a full rate for thyroid cancer and leukemia; and 50 percent of the title 38 rates for colon cancer, small intestine cancer, stomach cancer, liver cancer when cirrhosis or hepatitis B is not indicated, bile duct cancer, gallbladder cancer, pancreatic cancer, lymphomas - excluding Hodgkin's Disease - and multiple myeloma.

The VA would be required to give special consideration to the adjudication of claims for benefits based on diseases having a weak association with radiation, or which have a strong association with other risk factors or have both associations. The diseases listed are lung cancer, esophageal cancer, rectal cancer, pharynx cancer, liver cancer when cirrhosis or hepatitis B is indicated, kidney cancer, urinary tract cancer, bladder cancer, brain and nervous system cancer, salivary glands cancer, bone and joint cancer, and cutaneous melanoma. Special consideration would include the VA giving conclusive weight to the findings provided in the bill relating to the relationship between the disease for which benefits are claimed and ionizing radiation exposure in the process of evaluating the claim in the context of the veteran's exposure.

This measure would also require that the DNA radiation exposure estimates be adjusted upward according to a specified methodology that is set forth in the bill.

S. 1002 would also require that the reports of the Veterans' Advisory Committee on Environmental Hazards, which are required under section 6(d)(3) of Public Law 98-542 to be sent to the Administrator of Veterans Affairs, concurrently be sent to the Senate and House Veterans Affairs Committees.

The provisions of the bill relating to radiation exposure would terminate on September 30, 1990, approximately 1 year after the estimated completion date of a radiation mortality study being conducted under the mandate of PL 98-160, with respect to claims filed after that date.

Finally, the entitlement to VA health care for ionizing radiation exposed veterans provided in section 610(a)(1)(G) of title 38 would be extended to September 30, 1990.

Mr. Chairman, the authors of each of these bills deserve to be recognized for their efforts to improve the disability compensation and DIC programs with respect to radiation exposure claims. Although the measures are different, they both contain a number of well-reasoned provisions.

Rather than address each section of the bills, we would like to set forth a proposal based primarily upon provisions taken from S. 453, S. 1002, and H.R. 1811 which is being considered by the House Committee, but with a few added modifications. It is a proposal that The American Legion feels is fair and equitable , and one that would go a long way in providing benefits to this deserving group of veterans at long last. However, before we explain this idea, we would first like to discuss and in some cases reiterate a number of concerns of The American Legion with respect to radiation exposure.

Let us start with the fact that as we stated earlier, veterans who were exposed to ionizing radiation while serving in the U.S. Armed Forces continue to find it exceedingly difficult, if not impossible, to receive favorable determinations on their disability compensation claims from the Veterans Administration.

In October 1984, PL 98-542, the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act" was enacted. The stated purpose of this law was to ensure that Veterans Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin, or to ionizing radiation in connection with atmospheric nuclear tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan, for all disabilities arising after such service that are connected, based on sound scientific and medical evidence, to such service (and that Veterans Administration dependency and indemnity compensation is provided to survivors of such veterans for all deaths resulting from such disabilities).

Although this law did not address nearly all of the concerns that have been set forth by The American Legion over the past several years with respect to radiation and dioxin exposure, it was felt to be at least a step in the right direction and we anxiously awaited the publication by VA of rules to implement the Act. The final regulations were published in the Federal Register on August 26, 1985. The American Legion was not in agreement with a number of the rules, and addressed each of its concerns, in detail, in written comments that were submitted to the Veterans Administration during the public comment period. However, a number of the final regulations continue to be of concern to us.

The first concern that we feel bears mention at this time pertains to the rules that, as provided under section 5 of the law, are to specify whether, and if so under what circumstances, certain diseases are to be recognized as connected to a veteran's exposure to radiation. According to PL 98-542, the diseases for which rules must be issued are leukemias, polycythemia vera, and malignancies of the thyroid, female breast, lung, bone, liver and skin.

The Veterans Administration has determined that polycythemia vera is not a radiogenic disease for the purpose of this law. This arbitrary decision was based on an assumption that sound scientific and medical evidence does not establish a connection between polycythemia vera and radiation exposure.

Amazingly, in attempting to justify this decision, the scientific study cited (Polycythemia Vera Among Participants of a Nuclear Weapons Test, Glyn G. Caldwell, MD, et al., JAMA, Vol 252, pp. 662-664 (1984)), found a significantly greater than expected occurrence of polycythemia vera among 3,217 nuclear test participants present at the "Smoky" atmospheric nuclear test. The VA states, "However, the lack of supporting documentation suggests the apparent excess of polycythemia vera cases may have resulted from chance or misdiagnosis."

In reviewing the results of this study we find that only 0.2 cases would be expected in a population of this size, yet 4 were observed. Although these findings are statistically significant, VA has chosen not to accept them, has attempted to explain them away, and has not cited any evidence that shows that polycythemia vera is not caused by radiation exposure. To The American Legion, decisions made by VA in this manner with respect to what conditions service connection based on radiation exposure may be established are not acceptable.

A new regulation under 38 CFR 3.311(b), sets forth the rules for claims based on ionizing radiation, including those pertaining to requests for dose information. As a result of these regulations, the Veterans Administration has notified the Defense Nuclear Agency that any case not involving one of the 15 diseases listed in the regulations, as determined by VA to be a "radiogenic disease", is considered closed. Thus, DNA has instructed the Nuclear Test Personnel Review teams of the various branches of the

Armed Forces to return all requests for dose reconstruction for illnesses other than the 15 to the VA regional office that submitted the request, along with a copy of the Federal Register entry and a statement that according to VA rules, the case is not considered radiation related. The NTPR teams have been instructed not to calculate or reconstruct radiation exposures for VA on "non-radiogenic illnesses."

The rule is considered to be retroactive, and VA has notified DNA that all previous claims not involving radiogenic illnesses are considered closed.

In addition, the regulations establish a 30 year presumptive period for leukemia and bone cancer. The NTPR teams have been instructed to provide dose information only on those cases where these two diseases became manifest within 30 years of the veteran's participation in a nuclear weapons test, in accordance with the VA regulations. Fortunately we understand that some NTPR teams continue to act on all claims.

However, it appears to us that this blatant refusal on the part of the VA to fully develop claims that do not meet criteria that was established by that agency, is a denial of the claimant's due process, and that these particular regulations should be amended to state that dose information shall be provided in any case where there is a diagnosed disease or disability.

Quite frankly, we cannot see how PL 98-542, or the regulations relating thereto, have been much, if any, help to the Atomic Veterans.

Mr. Chairman, one of the most frequent problems that we encounter in representing veterans with their radiation exposure claims is the amount of exposure that must be demonstrated before VA will allow a claim. There is a wide difference of opinion among the scientific community as to how much radiation is dangerous. However, the Veterans Administration is holding fast to the theory that any exposure under 5 REM is not harmful.

This problem is compounded by the fact that actual exposure measurements do not exist for the majority of veterans who were involved in atomic weapons testing. Because of missing data including film badges in many instances, the Defense Nuclear Agency established the Nuclear Test Personnel Review (NTPR) program in each military service to conduct research in order to retrieve data necessary to reconstruct dose levels for individual veterans. We are most familiar with the work accomplished by the Army NTPR program, and appreciate the tremendous amount of time and effort that have gone into their development of test histories and dose reconstruction.

However, in many instances the dose reconstruction is based on methodology and assumptions because film badges are scarce to non-existent.

Film badging was originally the responsibility of The Atomic Energy Commission and the Armed Forces Special Weapons Program. However, in 1953 the Army assumed this responsibility and began issuing and processing the film badges for Army participants in the Desert Rock exercises.

During the first shot of the 1953 test series at the Nevada Test Site every participant was issued a badge. However, this was felt to be excessive, so badging was subsequently done by platoon, with the platoon leader receiving a film badge, and each member of that platoon being assigned the dose level received by the platoon leader. Following each exercise the badges were collected, read by a processing facility, and rosters were prepared, assigning, by platoon, a dose level to each participant. The rosters were then submitted to the Camp Desert Rock surgeon to determine whether or not any of the participants were overexposed.

Although five copies of each roster were made, all copies for every shot tested in 1953 and 1955 have somehow disappeared. An extensive search has been conducted during the past seven years, but the NTPR community has not been able to locate the rosters. Without them, a difficulty exists in placing the Army support troops at Camp Desert Rock during a specific shot, based on dates of assignment to the Nevada Test Site. Through the use of morning reports it may be determined whether a veteran was located at Desert Rock for the full period in which testing was being accomplished, or for a partial period. However, it is impossible to determine how many or what specific tests each veteran participated in, thus an estimated dose level, which may or may not be correct, must be assigned to each participant.

The American Legion has, for several years, repeatedly stated that much needs to be done in the way of research, particularly follow-up studies, on the issue of radiation exposure and its effects on veterans. We have stated that very little meaningful research has been accomplished to date, and the studies that have been completed almost all include a disclaimer that although there is a statistically significant finding, there is no proof that the increased incident of the particular disease or diseases is related to radiation exposure.

During the 98th Congress, The American Legion strongly supported legislation calling for an epidemiological study of the long-term health effects of ionizing radiation on those veterans exposed to it while on active duty. However, after the law was enacted mandating such a study, it was determined that it is not scientifically feasible to design a morbidity study of that nature.

It has become clear to us that little or nothing in the way of scientific research will be accomplished in time to be of any assistance to the Atomic Veterans, or their dependents and survivors.

Therefore, based on all that is set forth above, The American Legion feels that it is appropriate to request the Congress, through this Committee, to consider the following proposal.

(A) Section 312 of title 38 should be amended to establish that the following conditions, in the absence of demonstrable intercurrent cause, shall be considered to have been incurred in or aggravated by the veterans exposure to radiation while on active military duty for the purposes of disability compensation and DIC:

(1) All forms of leukemia, except chronic lymphatic leukemia, becoming manifest within 30 years of the last date of exposure.

(2) Polycythemia vera becoming manifest within 30 years of the last date of exposure.

(3) Thyroid cancer, female breast cancer, lung cancer, liver cancer, cancer of the bone marrow, skin cancer, esophageal cancer, stomach cancer, colon cancer, pancreatic cancer, kidney cancer, urinary-bladder cancer, salivary gland cancer, and multiple myeloma that become manifest 5 years or more after exposure.

(B) For the purpose of this proposal, radiation exposure must have taken place during the period 1945-1962 as a result of the atmospheric detonation of a nuclear device; or the American occupation of Hiroshima and Nagasaki, Japan, prior to July 1, 1946.

(C) For the purpose of adjudicating a claim for benefits under chapter 11 or 13 of title 38, the Veterans Administration shall presume the veteran to have received radiation exposure in a dose sufficient to result in one or more of the above-listed radiogenic diseases if the Defense Nuclear Agency determines that the veteran was present at the site of an atmospheric nuclear weapons test; or participated in the occupation of Hiroshima or Nagasaki.

(D) The Veterans Administration shall provide medical care authorized under PL 97-72, to any honorably discharged veteran who was exposed to ionizing radiation during active military service, and who has incurred a disability or disabilities other than those diagnosed as a congenital or developmental abnormality, or an acute condition that is obviously not related to radiation exposure.

(E) The reports of the Veterans' Advisory Committee on Environmental Hazards which are required under section 6(d)(3) of Public Law 98-542 to be submitted to the Administrator of Veterans Affairs are to concurrently be sent to the Senate and House Veterans Affairs Committees.

Mr. Chairman, there are, no doubt, those who will call this proposal irresponsible. However, so far as The American Legion is concerned, the United States Government has been neither responsible nor responsive to the Atomic Veterans.

It has been known for over 40 years that exposure to ionizing radiation is dangerous to human health.

For the past 10 years, at least, veterans have been attempting to prove that the cancers and other diseases that they have incurred were caused by their exposure to radiation while on active duty. However, it is reported that the Veterans Administration has allowed only 25 of more than 6,000 radiation claims that have been filed during that time.

In addition to that, a previously existing legal recourse, which allowed Atomic Veterans to sue for damages resulting from inadequate precautionary measures and other alleged negligence on the part of federal contractors while conducting nuclear weapons tests was nullified by an amendment to the FY 1985 Defense Authorization Act - PL 98-525. Despite a number of hearings at which The American Legion strongly supported legislation to restore these rights, it appears that any action is on hold.

Mr. Chairman, there is clearly a need for action to be taken, and The American Legion urges the Committee to study the proposal that we have set forth, keeping in mind the plight of the veterans involved, the frustrations they have faced in attempting to secure benefits, and the fact that it looks as if nothing in the way of meaningful scientific research will be completed during the lifetime of most of the Atomic Veterans.

The next measure under consideration is S. 1365, a bill to establish additional presumptions for former prisoners of war. The measure would amend section 312(b) of the title by providing that peripheral neuropathy, irritable bowel syndrome, and peptic ulcer disease are to be presumed to be service-connected if manifested within ten years after the last date of the veterans detention or internment and the symptoms have recurred on a continuous or regularly intermittent basis thereafter.

Mr. Chairman, The American Legion has been extremely supportive of a variety of measures over the years intended to address the immediate as well as long-term consequences of the prisoner of war experience by former members of our Armed Forces. Continued observation and scientific studies of this special group of veterans have indicated that from time to time health problems directly associated with the hardships and conditions of their confinement have not been adequately addressed by the presumptive provisions of section 312(b) of the title. Most recently, PL 99-576 expanded the listing of presumptive disabilities for which service connection might be granted in claims by former prisoners of war, to include the residuals of frostbite and post-traumatic osteoarthritis. Despite the progress represented by the passage of PL 99-576, The American Legion remains concerned that a number of conditions affecting substantial numbers of former prisoners of war have not as yet been included among the disabilities enumerated in section 312(b) nor have they been acknowledged by the Veterans Administration as being adjunct or secondary to a presumptive disability. The Delegates to The American Legion's 1986 National Convention adopted Resolution No. 331 which reiterates The American Legion policy on presumptive disabilities of former POWs. The resolution places us in a position to support legislation to amend section 312(b) of the title so as to expand the list of presumptive disabilities in the absence of demonstrable intercurrent causes or injury to include the following:

1. Hepatitis or infectious diseases of the liver;
2. Organic residuals of hypothermia;
3. Arthritis;
4. Peripheral neuropathy;
5. Chronic pulmonary disease (where there is a history of forced labor in mines during internment).

The resolution also mandates the Legion to support the amendment of section 612(b)(1)(G) of the title to reduce from six months to thirty days the period of time a former prisoner of war must have been detained or interned in order to be eligible for outpatient dental treatment by the Veterans Administration.

With respect to irritable bowel syndrome and peptic ulcer disease, The American Legion has stated in the past that it has not been able to support the inclusion of these gastrointestinal conditions under section 312 without additional descriptive information relating to the establishment of a causal relationship between the medical problem and the POW experience.

However, following review of the information contained in the introductory language that accompanied this measure, the Australian study of gastrointestinal morbidity among World War II prisoners of war, and other related material, we now feel that there is sufficient evidence available on which to base support for the presumption of service connection for irritable bowel syndrome and peptic ulcer disease. Thus, we support the enactment of S. 1365.

The next proposal, S. 917, would, in part, allow the Administrator to provide reimbursement for prepurchased grave markers by providing an amendment to section 906(d) of the title.

The American Legion has no objection to that provision.

Section 2 of S. 917 would amend section 903 of the title to change the eligibility for the plot allowance by making it consistent with the eligibility requirements for basic burial allowance.

The American Legion is totally opposed to this idea. We feel that Congress made a mistake when it restricted the criteria for burial allowance. We are mandated to push for the restoration of the former eligibility criteria for the burial allowance to all veterans, and to increase the amount of the plot allowance to $250.

Section 3 would eliminate the restriction in section 1008(b) that prohibits any State from receiving grants in any fiscal year in a total amount in excess of 20 per centum of the total funds appropriated for State cemetery grants that year. The American Legion has no reason to offer an objection to this proposal.

Section 4 would allow for the use of flat grave markers in the case of land transferred to the Department of Memorial Affairs from the Department of Medicine and Surgery for expansion of the national cemetery at Wood, Wisconsin.

The American Legion is supportive of this proposal, as we did not support the enactment of the section of PL 99-576 that mandates the use of upright markers with few exceptions.

S. 919 would amend chapter 24 of title 38 by providing that the Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a national cemetery if considered necessary for safe ingress or egress.

We are supportive of the enactment of this provision, as in many instances it would be the only way in which necessary improvements would be made in order to prohibit unnecessary accidents involving visitors and employees of the National Cemetery System.

S. 940 is an Administration bill that contains several proposed amendments to various veterans benefits.

Section 101 would permanently index the disability compensation and dependency and indemnity compensation programs and the clothing allowance to the Consumer Price Index. New rates would be published in the Federal Register as soon as practicable after the determination of the rates.

As stated earlier with respect to a provision of S. 9, The American Legion is opposed to the permanent indexing of these important service-connected disability and death benefits.

Section 201 of this bill would amend section 101(4)(B)(i) of the title by providing that an adoptee could not be considered the legally adopted child of a veteran for the purposes of benefit eligibility under title 38, unless prior to the adoption the child was orphaned by the death of both parents; or the child was properly committed to and recommended for adoption by a government child-welfare agency or a duly-licensed child placement agency. The amendment would apply only to an adoption under the laws of a jurisdiction other than a State, territory, or possession of the United States, the Distric of Columbia, Puerto Rico, or the Northern Mariana Islands.

According to the explanatory language accompanying the bill, this proposal is necessary because foreign courts in some cases grant adoptions without observance of standards comparable to those applied in courts of this country. It goes on to explain that section 401 of PL 96-22 added new section 101(4)(B) to title 38, providing that a person residing outside the United States under the laws of a foreign jurisdiction shall not be considered the legally adopted child of a veteran unless stated criteria relating to age at the time of adoption, support from the veteran, residence with the veteran, and absence of custody by a natural parent are met. In the case of a deceased veteran, the adopted child must have met the requirements for at least one year prior to the veteran's death or the veteran must have received benefits for the child during the year preceding death.

The introductory information further states that although the amendment enacted in 1979 has been of considerable benefit in combating adoption abuses, experience with the statute has revealed significant difficulties in administration, particularly in applying custody and residence criteria. And it is known in some claims in which VA has recognized foreign adoptions under the amended statute where the motivation for the adoption must be considered suspect. These claims involve the adoption of children by aged grandparents in receipt of veterans pension benefits.

Mr. Chairman, in an attempt to reduce the potential for abuse and simplify claim development, this proposal as we see it, could do more harm by establishing inequities for some veterans than the good it would accomplish with respect to its intent. For instance, any U.S. veteran with a service-connected disability now residing in Canada, Australia, Saudi Arabia, Germany or Mexico, just to name a few examples, would be precluded from drawing increased compensation or additional benefits based upon the adoption of a child while residing in that country. This would particularly affect Vietnam veterans, as they are of the age group most likely to adopt children. It is obvious that this is not the type of foreign adoption that is targeted in the legislation., However, innocent veterans such as those pointed out in the foregoing examples would be adversely affected because of the fact that they reside, many as a result of their employment, in a foreign country.

It would appear to us that a more prudent and equitable solution could be accomplished through closer adherence to existing law by Veterans Administration personnel who are adjudicating questionable claims such as those mentioned previously.

Section 202 of S. 940 would amend sections 415(f)(1)(I) and 503(a)(5) to expand the current "fire insurance" exclusion, relating to funds excluded as income for the purpose of pension and parents DIC. This provision would expand the category of "fire insurance" to cover comparable payments from any source to replace or restore the value of real or personal property damaged, destroyed or lost due to any cause. The amount to be excluded from income would be limited to the fair market value of the property involved as of the date of the loss.

The American Legion supports this amendment to the disability and death pension, and parents DIC programs. The current exclusions are too limiting, and this would provide an equitable improvement to these programs.

Mr. Chairman, with respect to the need for further improvement in the pension program, PL 95-588, the Veterans and Survivors Pension Improvement Act of 1978, effective January 1, 1979, did bring about major changes in the pension program for veterans of World War I, World War II, The Korean and Vietnam Wars, and for their surviving spouses and children. These pension improvement provisions established a guaranteed annual income level for veterans as well as for spouses and children.

After extensive study, The American Legion has concluded that there are inequities in the improved program that require amendments. The Legion has been mandated on this issue since 1979, and recently, H.R. 2449 was introduced on behalf of The American Legion, calling for the needed improvements.

The amendments to title 38 necessary to improve the death and disability pension programs, as identified by The American Legion, are as follow:

1. (a) Amend section 541(b) to provide as follows: "If no child of the veteran is in custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $5,367 reduced by the amount of the surviving spouse's annual income." (b) Amend section 541(c) to provide as follows: "If there is a child of the veteran in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $7,030 reduced by the amount of the surviving spouse's annual income." (c) Amend section 541(d)(1) to provide as follows: "If a surviving spouse who is entitled to pension under subsection (b) of this section is in need of regular aid and attendance, the annual rate of pension payable to such surviving spouse shall be $8,585 reduced by the amount of the surviving spouse's annual income." (d) Amend section 541 (d)(2) to provide as follows: "If a surviving spouse who is entitled to pension under subsection (c) of this section is in need of regular aid and attendance, the annual rate of pension payable to the surviving spouse shall be $10,248 reduced by the amount of the surviving spouse's annual income." (e) Amend section 541 (e) to provide as follows: "If the surviving spouse is permanently housebound, but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to such

surviving spouse under subsection (b) of this section shall be $6,560 and the annual rate of pension payable to such surviving spouse under subsection (c) of this section shall be $8,223 reduced by the amount of the surviving spouse's annual income."

2. Amend section 542 to provide as follows: (a) "Whenever there is no surviving spouse entitled to pension under section 541, pension shall be paid monthly to each child at the annual rate of $4,963 reduced by the child's annual income."

3. Amend section 543 by deleting under subsection (b) the following: "The income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person."

4. Amend section 521(f)(1) through (5) to provide as follows: "If two veterans are married to one another and each meet the disability and service requirements prescribed in subsection (a) and (j) respectively, of this section, the rate of pension payable to each such veteran shall be at the annual rate of $5,963 reduced by the amount of each such veteran's annual income. If either such veteran is in need of regular aid and attendance the rate of pension payable to each such veteran shall be at the rate of $5,963 and $9,539 respectively, reduced by the amount of such veteran's annual income. If either such veteran would be entitled to pension at the rate provided by subsection (e) of this section, the rate of pension payable to each such veteran shall be $5,963 and $7,288 respectively, and if both such veterans would be entitled to the rate provided by subsection (e) of this section, each shall be paid at the annual rate of $7,288 reduced by the amount of each such veteran's annual income. If one such veteran is in need of regular aid and attendance and the other would be entitled to the rate provided for under subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $9,137 and $7,288 respectively."

5. Amend section 503 to exclude in the determination of annual income, payments under policies of Servicemen's Group Life Insurance, United States Government Life or National Service Life Insurance, and payments of Servicemen's Indemnity.

6. Amend section 3012(b)(4) to read as follows: "(4) By reason of change in income or corpus of estate shall be the last day of the calendar year in which the change occurred;".

Mr. Chairman, The American Legion urges the Committee to consider these needed improvements. There have been no hearings that we are aware of that have included consideration of any amendment to the pension program since the enactment of PL 95-588, and we feel that it is long overdue.

Section 301 would amend PL 97-377, section 156 to reinstate section 412 insurance benefits for certain surviving spouses and children of veterans who died of service-connected causes prior to August 13, 1981, and who are eligible for these benefits in lieu of Social Security benefits.

The American Legion supports this initiative.

The final measure under consideration today is S. 1090.

Section 101 would establish a new section 727 under Chapter 19 of the title which would provide authority for the Administrator to, from time to time, adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving such proceeds under a life annuity settlement option. The Administrator would determine the amount in the trust funds in the Treasury held for payment of proceeds to NSLI, VSLI and VRI beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount would be available for distribution to the aforementioned life annuitants as a fixed percentage of, and in addition to, the monthly installment amount to which they are entitled.

The American Legion is certainly supportive of this increase in payments to beneficiaries based upon the interest accrued on the unpaid balance of the proceeds of the policies, in the case of an annuity settlement.

Section 201 would amend section 769 of the title relating to Servicemen's and Veteran's Group Life Insurance, by adding a new subsection that would provide that no tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid under these insurance policies. This would provide the same exemption to SGLI and VGLI as is now provided with respect to premiums under the Federal Employees Group Life Insurance program, and we support this proposal.

Section 301 of S. 1090 would amend section 806 of the title to authorize VA to assume all administrative functions under the Veterans Mortgage Life Insurance Program. This program, established under PL 92-85 provides automatic mortgage life insurance coverage to disabled veterans who receive VA assistance in obtaining specially adapted housing. Currently a private insurance company acts as insurer under contract to VA, as required under the law. This has reportedly proven costly and inefficient.

In the interest of improving the efficiency of the VMLI Program, which should result in substantial cost savings, The American Legion supports this provision.

Mr. Chairman that concludes our statement.

STATEMENT OF
JOHN F. HEILMAN
NATIONAL LEGISLATIVE DIRECTOR
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
OF THE
UNITED STATES SENATE
June 30, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the over 1.1 million members of the Disabled American Veterans and its Ladies' Auxiliary, may I say that our organization deeply appreciates this opportunity to present our views on legislation relating to the service-connected disability and death compensation programs of the Veterans Administration.

At the outset Mr. Chairman, I do want to thank you and all members of the Committee for your decision to give consideration to today's subject legislation.

In addition to a proposal that would authorize upward adjustment in the rates of VA service-connected disability and death compensation benefits, we are most pleased that you have placed on the hearing agenda several bills relating to the service-connected entitlements of the so-called "atomic veteran" -- those veterans exposed to ionizing radiation as a result of their military service.

I shall address the radiation bills later in my testimony, but for the moment I do want to thank you, Mr. Chairman, and Ranking Minority Member Murkowski, for the leadership roles you have assumed on this most important issue. The past concern that you have demonstrated for the needs of this category of VA claimant and your most recent sponsorship of the two radiation bills now pending in the Senate are deeply appreciated by the DAV and, of course, by atomic veterans and their survivors.

S. 9

Mr. Chairman, the provisions of S. 9, The Service Disabled Veterans' Benefits Improvement Act of 1987 -- introduced by yourself and cosponsored by Senators Matsunaga, DeConcini, Mitchell, Rockefeller, Gramm and Lautenberg -- in addition to authorizing a cost of living adjustment in the rates of VA service-connected disability and death compensation benefits, contains various provisions relating to other service-connected entitlements and programs of the Veterans Administration. I shall address these provisions in their chronological order.

Section 2 of the bill directs the VA Administrator to increase the basic rates of VA service-connected disability and death compensation benefits, as well as the dependency allowances and, with one exception, the statutory awards which apply to the compensation and DIC programs. Under the terms of the measure, the increases shall take effect December 1, 1987, shall be "across-the-board" and the rate of increase shall be equal to the same percentage rate of increase that is awarded to Social Security beneficiaries (effective the same date) under Title II of the Social Security Act, as determined under Section 215(i) of such Act.

As estimated at the time of S. 9's introduction in the Senate, the Congressional Budget Office (CBO) forecast for such increase was 4.1%, which would require, in terms of VA expenditures, $352 million in budget authority and $317 million in outlays during Fiscal Year 1988.

To put it in more meaningful terms, Mr. Chairman, the benefit increases would range from a modest $36 per year (three dollars monthly) for a veteran with a 10% service-connected disability to $672 more per year ($56 monthly) for a veteran who is determined to be 100% totally and permanently disabled due to service-connected disability.

Mr. Chairman, in consideration of an increase in VA disability and death compensation benefits, it is important to recall the principle upon which these programs were established:

> Disability compensation paid to veterans attempts to represent, to the most practical degree possible, the average impairment in earning capacity caused by a service-connected disability. DIC benefits, on the other hand, are intended to provide a measure of financial security to surviving spouses and children of veterans whose deaths are attributable to a service-connected disability.

Over the years, this Committee has been most diligent in its efforts to assure that the purchasing power of these benefits keeps pace with our society's rising cost of goods and services. The most recent adjustment of these ~~rates~~ authorized by Public Law 99-576 represented the 13th consecutive year that your Committee has taken action on this most important issue.

I do wish to make special note of the fact that the provisions of Section 2, as presently drafted, would not allow an increase in the "k" award as set forth in Section 314(k), Title 38, USC. This is a special monthly benefit -- presently $63 -- paid in addition to the basic rates of compensation of certain veterans who have incurred a service-connected loss or loss of use of a single extremity or certain other body organs and functions.

Over the years, this particular award has only been infrequently included in prior compensation bills, although it was increased (by one dollar) last year to its present amount by Public Law 99-576. We therefore ask the Committee to include the "k" award in any compensation bill that it may recommend to the Senate.

Mr. Chairman, with the concern noted above, the DAV does support the disability compensation/DIC adjustments proposed in the pending bill.

Having stated that, we also state -- as we have done in recent years -- our willingness to pose no objection should the Congress decide, for the economic well-being of our nation, that the cost of living adjustments (COLAs) in all federal programs should be foregone or subject to delay in Fiscal Year 1988. As members of the Committee are well aware, disabled veterans have been and continue to be willing to do their fair share for America.

However, in view of the fact that such a decision on the part of the entire Congress is not likely to materialize, we urge the Committee to favorably act upon the proposed rate adjustments.

One final comment before proceeding to the next section of the bill:

Directing the Administrator to increase benefits by a percentage rate equal to Social Security adjustments -- such adjustments being governed by an automatic formula linked to Consumer Price Index (CPI) movement -- could be perceived as tantamount to or leading to the automatic indexing of VA disability compensation/DIC benefits.

The DAV is strongly opposed to the automatic indexing of compensation and DIC benefits and I shall address this issue later in my testimony with respect to S. 940.

Section 3 of the measure proposes, through appropriate amendment of Title 38, USC, to increase by 12.5% the assistance presently offered by the VA under its specially adapted housing program.

Specifically, the so-called "wheelchair home" grant, a one time award authorized to veterans who are service-connected disabled for the loss or loss of use of both lower extremities, blindness in both eyes plus the loss or loss of use of one lower extremity, or certain other serious mobility losses of function, would be increased from its present figure of $35,500 to $40,000.

Similarly, the special adapted housing assistance now provided to veterans who are service-connected for blindness of both eyes or the loss or loss of use of both upper extremities would be increased from $6,000 to $6,775.

Both increases would become effective October 1, 1987.

Mr. Chairman, as you are aware, these two programs are utilized primarily by service-connected veterans who are paraplegics, suffer multiple extremity amputations, blindness and other catastrophic disabilities which require adaptation of the home environment in order to allow for safe access and egress, as well as comfortable living within a domicile. Such adaptations generally include ramps, widened doorways, special bathroom and kitchen equipment and other modifications.

As noted in your introductory remarks on the floor of the Senate, assistance under these two programs was last adjusted on January 1, 1985. Since that time, the average cost of existing housing has increased in excess of 12%...certainly justifying the proposed adjustments.

The DAV strongly supports this provision and we urge favorable action by the Committee.

Section 4 of the bill would increase, effective October 1, 1987, the VA's service-connected disability burial allowance from its present figure of $1,100 to $2,250.

Mr. Chairman, this benefit, which is intended to defray the funeral and burial expenses incurred by the eligible survivors of veterans whose deaths were attributed to a service-connected disability, was last increased in 1978. At that time, the average cost of a funeral, according to the National Association of Funeral Directors (NAFD) was $1,348. In the intervening decade, according to NAFD data, the cost has more than doubled to $2,745.

This inflationary increase has certainly eroded the value of this most important benefit and the adjustment proposed is appreciated and supported by our organization.

Section 5 of S. 9, through appropriate amendment of VA educational assistance programs as set forth in Chapters 30, 31, 32, 34 and 35, Title 38, USC, would authorize extension in the "delimiting periods" that currently apply to these programs in cases where otherwise eligible program participants have been prohibited from using their entitlements due to alcohol/drug dependency conditions.

As you are quite aware, Mr. Chairman, current law does provide that veterans (both disabled and non-disabled) and their dependents who have eligibility under the above cited educational assistance programs, can apply for and receive extensions in the delimiting periods that otherwise apply, if they have been prevented from timely utilization of their benefits due to a physical or mental disability, not the result of willful misconduct. Over the years, many veterans and their dependents have applied for and been granted such extensions.

However, there have been a number of instances in which the VA has denied extensions in delimiting periods when the debilitating conditions have been caused by or related to alcohol and drug abuse. These denials have been based upon the VA's interpretation of the "willful misconduct standard" which, as we understand it, directs that alcohol and drug addiction and injuries/conditions resulting from the deliberate ingestion of such substances shall be considered to be the result of willful misconduct.

Mr. Chairman, I do not believe that anyone would take issue with the current willful misconduct standard as it is applied to VA benefits such as service-connected disability compensation and nonservice-connected pension.

If the origin of a disability -- either in-service or post-service -- is related to alcohol/drug abuse, no reasonable person should expect the American taxpayer to "reward" such abuse through the extension of what could be lifetime monetary entitlements.

However, there is a distinction to be made when considering the instant situation.

Entitlement to these VA educational programs has been earned through the performance of honorable military service, incurrence of a service-connected disability or, in the case of dependents and survivors, through their relationship to severely disabled service-connected veterans. Unlike the above cited compensation/pension entitlements, it is not a question of providing a benefit that is the direct or proximate result of alcohol/drug abuse. As stated above, entitlement to these educational benefits has previously been established with no relationship to substance abuse.

I wish to state, Mr. Chairman, that the DAV does not believe the VA, in denying extensions of delimiting periods for this category of program participant, has violated existing law/regulation or the intent of Congress. As you indicated in your remarks which accompanied of S. 9 in the Senate, the legislative history of Public Law 95-202 -- which first authorized educational delimiting period extensions in 1977 --

indicated that it was the desire of the Congress that the VA apply the same willful misconduct standard that has been and is being utilized in determining eligibility for other Title 38 programs.

However, the DAV does believe that the denial of such extensions runs counter to the basic philosophy of providing educational opportunities and social and economic rehabilitation to veterans and their families. As previously mentioned, we do discern a distinction between providing a benefit based on a disability that stems from willful misconduct behavior, and adopting a policy that allows utilization of previously earned benefits.

We also note that, under the provisions of Section 5, such extensions would be contingent upon a demonstration that the individual has received treatment for the dependency condition and that it is sufficiently under control to enable pursuit of the educational entitlements.

We are aware that this issue -- VA's application of its willful misconduct standard vis a vis applications for delimiting period extensions -- has been the subject of litigation in the courts...Tinch vs. Walters, McKelvey vs. Turnage and Traynor vs. Turnage are cases that come to mind. (The latter two are now at the Supreme Court and address the issue of possible conflict with the Section 504 anti-discrimination provisions of the Rehabilitation Act of 1973.) However, there is no guarantee that these judicial decisions will permit the relief sought or, in fact, be in the best interest of veterans and these important VA programs.

As we agree with the purpose of Section 5 and as we believe the legislative process provides the best avenue for resolution of this matter, we urge favorable action by the Committee.

Section 6 of the bill would authorize, effective October 1, 1987, an increase from $27,500 to $36,000 in the maximum amount of the VA's Home Loan Guaranty for conventionally built homes and condominium apartments.

Mr. Chairman, it has been almost seven years since the present $27,500 loan guaranty maximum figure was set for this most important program. Since that time, substantial increases in the cost of existing and newly constructed housing have occurred. If the program is to remain viable and continue to entice lending institutions to provide no or low down payments loans to veterans, then adjustment of the guaranty amount, as proposed by the pending bill, is certainly justifiable.

The DAV supports favorable action on this proposal.

Section 7 of S. 9 authorizes, effective October 1, 1987, an increase in the VA's automobile and adaptive equipment award from its present $5,000 figure to $5,530.

As the Committee is aware, since 1946, the VA has administered a program of automobile assistance which, among other things, consists of a one-time monetary grant to veterans who have incurred the service-connected loss or loss of use of one or both hands, one or both feet, or blindness to the prescribed degree in both eyes. Intended to assist such veterans in the purchase of an automobile, the grant originally was set at $1,600 and has been increased periodically over the years consistent with the rise in the cost of automobile purchase. Last increased January 1, 1985, the proposed $530 adjustment reflects the rise in automobile prices that has occurred since then and will occur by the end of the current fiscal year.

We therefore support favorable action by the Committee on this provision of the pending bill.

Finally, Mr. Chairman, Section 8 of S. 9 proposes certain changes of law relating to the effects of "sequestration" under Public Law 99-177, The Balanced Budget and Emergency Deficit Control Act of 1985, on VA programs.

As you will recall, Mr. Chairman, when the so-called "Gramm/Rudman/Hollings" balanced budget act was enacted into law and shortly thereafter, the Congress, at the urging of the House and Senate Veterans Affairs Committees, granted protection from sequestration to certain VA benefits and services.

As enacted, full exemption was given to VA service-connected disability and death compensation benefits and a "partial" exemption was extended to VA health care funding. Shortly thereafter, when the 1986 sequestration order threatened to shut down the VA Home Loan Guaranty Program, two separate measures were approved by the Congress to "raise the cap" and allow the VA to continue honoring its loan guaranty commitments during the course of that fiscal year. Finally, Public Law 99-576, enacted in the fall of last year, provided permanent exemptions for VA special adapted housing grants, automobile assistance and service-connected burial awards and temporary one year exemptions (Fiscal Year 1987) for educational assistance under the VA programs contained in Chapter 31 and Chapter 35, Title 38, USC.

The provisions of Section 8 of the pending bill once again address this issue and propose to authorize permanent exemptions from future sequestration orders to the VA programs of vocational rehabilitation (Chapter 31, Title 38, USC), dependents' and survivors' educational assistance (Chapter 35, Title 38, USC) and home loan guaranty (Chapter 37, Title 38, USC).

Also proposed is a "retroactive" date of protection from sequestration for two self-sustaining VA accounts: the Special

Therapeutic and Rehabilitation Activities Fund and the Canteen Service Revolving Fund. Such retroactive protection would restore monies previously paid to the treasury (from the funds) as the result of the 1986 sequestration order.

Mr. Chairman, the DAV deeply appreciates your Committee's continued concern over the impact of future sequestration on VA benefits and services, particularly those extended to veterans with service-connected disabilities. We strongly support the provisions of Section 8.

Radiation Legislation

As stated at the outset of my testimony, Mr. Chairman, the DAV is most pleased by your decision to place on the hearing agenda bills relating to the needs of the so-called "atomic veteran" -- those veterans exposed to ionizing radiation as a result of participation in the testing of above ground nuclear devices and/or as a result of serving in the immediate post-World War II occupational forces in Hiroshima/Nagasaki, Japan.

Mr. Chairman, the path traveled by atomic veterans in their attempt to establish entitlement to VA benefits and services -- particularly service-connected disability and death compensation benefits -- has been long and arduous, fraught with complexity and emotion. Indeed, at least in the initial stages of the controversy, there was a reluctance on the part of many to even acknowledge existence of this particular "class" of veterans. Doubts were expressed in many quarters concerning the legitimacy of the group and its claims that it had been placed in a unique and precarious situation during military service.

Over the years, through the dogged persistence on the part of atomic veterans themselves and, buttressed by expanding knowledge and insight concerning the effects of radiation upon human tissue and the circumstances of exposure experienced, these doubts, these reservations have been pushed aside.

The bone of contention facing us today -- given the accepted legitimacy of atomic veterans and the obligation of our government to receive there claims -- is the answer to the question of just how do we address the issue?

Setting aside the existing VA claims process for the moment, several options have been and continue to be examined -- witness the ongoing NARS vs. Turnage litigation, legislation advocating the repeal or modification of the "Warner Amendment" and proposals to allow atomic veterans, along with all other VA claimants, to pursue VA benefit denials in the Federal District Court system.

It is our considered opinion that these avenues of redress beg one salient factor: given the inability of the scientific community to state with any degree of certainty that low level exposure to ionizing radiation will lead to the development of any subsequent condition, combined with the absence of accurate, reliable information relating to exposure levels actually experienced, atomic veterans cannot, within existing law and regulation, definitively prove a cause and effect relationship.

The right to hire an attorney, the right to sue the government or the private contractors involved in the development and testing of nuclear devices offers, at best, a time-consuming, expensive and, very likely, inconclusive avenue of redress...one that ultimately may never place meaningful compensation into the hands of atomic veterans and their survivors.

Of course, Mr. Chairman, this same "causation dilemma" applies to the present VA adjudication process.

For years, including the interval since the enactment of Public Law 98-542, which saw the recognition of 15 radiogenic conditions and initiation of regulatory procedures to handle ionizing radiation claims, atomic veterans have been frustrated in their pursuit of service-connected entitlements. Only a handful (25) of the 6,000-plus claims that have been filed have been allowed.

But, the reason for this lies not with the quality of representation provided to VA claimants or the quality of VA Rating Board decisions, but simply because current law and regulation, which has it genesis in the Congress, requires definitive scientific proof of causation.

Atomic veterans, who were intentionally exposed to the dangerous affects of radiation in the infancy of the nuclear age under circumstances and conditions that would not be tolerated today, thus find themselves in a stalemated position vis a vis their benefit entitlements. They have waited, patiently, for some 30 to 40 years and it is time to act in a fashion proposed by the pending legislation.

S. 453 and S. 1002

Mr. Chairman, the bills subject to today's hearings, S. 453 and S. 1002, collectively carry the sponsoring signatures of yourself and Senator Murkowski and fellow Committee members Senators Matsunaga, DeConcini, Mitchell, Rockefeller and Gramm. Other distinguished members of the Senate are also associated with these bills, including Senator Simon, who has been a long-time advocate for atomic veterans.

Though both bills differ, in varying degrees from one another, they have in common a basic, fundamental approach that would, through appropriate amendment of Title 38, USC, place monetary entitlements immediately into the hands of atomic veterans (and their survivors) who have developed or succumbed from certain cancerous conditions held to be related to exposure to low levels of ionizing radiation.

S. 453, for example, would amend Section 312, Title 38, USC, to provide a presumption of service-connection -- and therefore entitlement to VA service-connected disability and death compensation benefits -- to atomic veterans who have developed, within specifically stated time frames, the conditions of:

* leukemia (excepting chronic lymphatic leukemia);
* liver cancer;
* multiple myeloma; and
* cancer of the bone marrow.

S. 1002, utilizing a different approach, would add a new Chapter (14) to Title 38, USC, authorizing benefits equal to the rates of service-connected disability and death compensation payments under Chapters 11 and 13, Title 38, USC, for the conditions of:

* leukemia; and
* thyroid cancer.

In addition, and unlike S. 453, S. 1002 would also provide benefit payments at 50 percentum of the rates authorized in Chapters 11 and 13, Title 38, USC, for the conditions of:

* cancer of the colon;
* cancer of the small intestine;
* cancer of the stomach;

- cancer of the liver (except where cirrhosis or hepatitis B is indicated);
- cancer of the bile duct;
- cancer of the gall bladder;
- cancer of the pancreas;
- lymphomas (excluding Hodgkin's Disease); and
- multiple myeloma.

Both bills also contain provisions which would provide special consideration for the adjudication of claims of atomic veterans (and their survivors) who have certain other radiogenic or suspected radiogenic conditions, such special consideration taking into account the unreliability and inaccuracy of Defense Nuclear Agency (DNA) radiation dose estimates and/or the augmentation of DNA dose estimates.

A final difference of note regarding the benefit entitlements proposed by the two bills is that, unlike S. 453, applications for the payments authorized by S. 1002 could no longer be received after September 30, 1990 (one year after the estimated completion of the radiation mortality study mandated by Public Law 98-160).

Mr. Chairman, the above cited differences -- as well as those contained in a measure presently being acted upon in the House of Representatives (H.R. 1811) -- obviously must be reconciled before any measure can clear the Congress for Presidential signature. In terms of priority, as we view them, they range from determining just which radiogenic conditions should be recognized for payments and the length of manifestation periods involved, to the more technical decision of where and how to make the necessary modification in Title 38, USC.

And though some of these differences are substantial and, aside from other factors, will be influenced by the finite amount of federal dollars available, we in the DAV do not find them to be insurmountable. We are confident that this Committee and your counterpart in the House will be able to reach agreement. Though such agreement will most likely not satisfy all interested parties, I am sure that all will appreciate that a fundamental, indeed, an historic first step will have been taken on behalf of atomic veterans and their families.

I can categorically state that the DAV holds to this view.

We have long recognized, through the experiences encountered by our National Service Officers in representing radiation claimants before the VA, that, absent a breakthrough translating suspicion of causation into one of scientific fact, modification of current law is necessary.

And we have pursued such a modification of law -- commencing in 1978 with our participation in hearings conducted by the Subcommittee on Health and Environment of the House Energy and Commerce Committee, and continuing through the 1984 Congressional consideration and passage of Public Law 98-542 down to the present time, where our organization finds itself to be under a mandate to secure service-connection for leukemia developing in atomic veterans.

Mr. Chairman, we urge the Committee to act favorably on this legislation. The input and views of the DAV are available to you, as you proceed to mold the proposals contained in the pending bills into a measure accessible to the entire Congress.

S. 1365

Mr. Chairman, you have placed on the hearing agenda S. 1365, a bill introduced by Senator Gramm and cosponsored by yourself and Senators Murkowski, Matsunaga, DeConcini, Rockefeller and Mitchell.

This measure proposes a liberalization in VA service-connected entitlements extended to former prisoners-of-war, specifically, by amending Section 312(b), Title 38, USC, it would add the following conditions to those that are presently presumed to be service-connected when diagnosed in former prisoners-of-war:

- peripheral neuropathy;
- irritable bowel syndrome (spastic colon); and
- peptic (or duodenal) ulcers.

Under the terms of the bill, the above cited conditions would be presumed to be service-connected for VA disability compensation purposes if it is shown that they had been first manifested within ten years after the last date of the veteran's POW internment and if such manifestation has recurred on a continuous and intermittent basis thereafter.

Mr. Chairman, this Committee is well aware of the "unique" nature of a POW experience and the great difficulty former POWs -- especially those of World War II and Korea -- have had and continue to have in establishing claims of service-connection for conditions related to their periods of incarceration. This fact, of course, is the basis for the special considerations that are now offered to former prisoners-of-war under Section 312(b), Title 38, USC.

Last year, with the strong support of the DAV, the full House of Representatives gave approval to a measure (H.R. 4333) which was similar in intent to the measure pending before the Committee. Unfortunately, the bill did not gain Senate approval. We are therefore most pleased by the Committee's decision to place S. 1365 on the hearing agenda.

Mr. Chairman, the DAV supports favorable consideration of this measure, however, we do strongly urge that the present language, making the presumptions of service-connection for these three conditions contingent upon manifestation within a ten year period of incarceration with evidence of continual recurrence, be stricken from the bill.

We would note that all of the 11 POW conditions presently listed in Section 312(b) have an "open-ended" period of presumption. That is to say, they are presumed to be related to service if manifested to a degree of 10% or more in former POWs any time after military service.

This, we believe, is entirely justifiable.

As you have noted, Mr. Chairman, the POW study undertaken as a result of Public Law 95-479, stated that the hardships and privations suffered by POWs -- psychological stress, inadequate medical care, malnutrition, abuse, torture, etc. -- can have long-term affects that may not be identifiable for extended periods of time and present serious limitations insofar as a POW's ability to establish entitlement to VA benefits and services.

Given the fact that privations such as incurred by POWs can vary greatly from one individual to another, we believe the current restrictive language of the bill would unjustifiably prevent the extension of entitlements in many deserving cases.

For example, can one actually say that the origin of peptic ulcers manifested by two veterans who survived the Bataan Death March should be viewed differently if one was first diagnosed in 1955 and the other in 1956? That could very well occur under the bill as presently drafted.

Mr. Chairman, we have noted the concern that the present language is intended to "...eliminate the presumption where the disability first appears many years after release from captivity and therefore is likely attributable to intervening causes...." I would remind the Committee of the current rebuttable provisions of Section 313, Title 38, USC, which state that if there is affirmative evidence to the contrary or indications that an intercurrent injury or disease is the cause of the disability, then none of the presumptive conditions listed in Section 312 shall be accorded service-connected status. Therefore, in our view, the language of Section 313 already insures that program integrity will not be violated.

Again, we urge the Committee to delete this ten year manifestation requirement as being too restrictive and unnecessary.

S. 917

This measure, introduced in the Senate at the request of the Administration, proposes, through appropriate amendment of Title 38, USC, to:

- authorize payment of the VA headstone allowance in those cases where the veteran has prepaid the cost of the headstone or marker;
- restrict current authority for payment of the VA plot allowance; and
- authorize the provision of flat grave markers in the expanded section of the National Cemetery at Wood, Wisconsin.

Mr. Chairman, the DAV opposes that section of the pending bill which would modify the current eligibility criteria for the VA's plot allowance and thereby remove from such eligibility veterans who served during a period of war. There is no basis for elimination of this modest, justifiable benefit other than to reduce the current level of VA expenditures. Our organization has no objection to favorable consideration of the remaining two provisions of the bill.

S. 919

This measure, also introduced in the Senate at the request of the Administration, would allow the VA Administrator, at his/her discretion, to make contributions to local authorities toward or for the construction of traffic controls, road improvements or other projects adjacent to a national cemetery, if such construction projects are deemed necessary for safe ingress and egress.

Mr. Chairman, we are aware that current law -- Section 5008, Title 38, USC -- now provides the Administrator with the above cited authority in conjunction with VA medical facilities. We have no objection to extending this same authority in conjunction with national cemeteries.

S. 940

The measure, also introduced at the request of the Administration, proposes, among other things, to:

* provide for the automatic annual indexing of the rates of VA service-connected disability and death compensation benefits;

* modify existing standards, for VA benefit purposes, concerning recognition (by VA) of a child adopted under laws outside the jurisdiction of a State; and

* provide, for dependent parent DIC and nonservice-connected pension/death pension benefit purposes, for the exclusion as countable income of any fair market value reimbursement received due to casualty (property) loss.

Mr. Chairman, with respect to the automatic indexing of future adjustments of VA service-connected disability and death compensation benefits, the DAV is adamantly opposed to such a proposal, for we regard it as nothing more than a thinly veiled attempt on the part of the Office and Management and Budget (OMB) to inhibit Congressional oversight of the VA's disability and death compensation programs.

As far as the DAV is concerned, decisions to adjust service-connected disability and death compensation benefits should remain firmly in the hands of the Veterans Affairs Committees and the Congress. Not only is the Congress, led by the Veterans Affairs Committees, eminently qualified to determine what, if any, adjustment should be made in these benefit levels, but the annual oversight and scrutiny that accompanies such considerations has, over the years, resulted in meaningful program improvements that otherwise would not have been forthcoming.

No, Mr. Chairman, we do not want the programs of compensation and DIC to be placed on the "back shelf," for that is what would occur under the Administration proposal. We are aware that you and members of this Committee are of the same opinion and we deeply appreciate your desire to continue your firm and unfettered guardianship of the entitlements of our nation's service-connected disabled veterans, their dependents and survivors.

With regard to the other cited provisions of S. 940, the DAV does support their favorable consideration by the Committee.

S. 1090

Mr. Chairman, the final Administration requested bill proposes, through appropriate amendment of Title 38, USC, to:

* authorize higher monthly installments payable to certain insurance annuitants (under the NSLI, VSLI, VRI and SGLI programs);

* exempt premiums paid under the SGLI and VGLI insurance programs from state taxation; and

* authorize the Veterans Administration to transform the current Mortgage Protection Life Insurance program (Section 806, Title 38, USC), currently contracted with private insurance companies, into a Veterans Mortgage Life Insurance program to be administered and maintained by the Veterans Administration.

Mr. Chairman, the DAV has no objection to the favorable consideration of this measure by the Committee.

* * *

Mr. Chairman, this completes my statement. I again want to thank you and members of the Committee for extending the DAV the opportunity to comment upon these most important issues.

Gold Star Wives of America, Inc.

GOLD STAR WIVES
OF AMERICA

STATEMENT OF

MRS. GERALDINE B. CHITTICK, LEGISLATIVE CHAIRMAN
GOLD STAR WIVES OF AMERICA, INC.

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

REGARDING

DEPENDENCY AND INDEMNITY COMPENSATION

JUNE 30, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

Your most welcome invitation to appear before this Committee was gratefully received. Thank you for inviting us to make a personal presentation of the views of Gold Star Wives of America concerning Dependency and Indemnity Compensation. We are delighted to be here, and we trust that the lines of communication between the Committee and our organization are firmly re-established.

The commendable manner with which this Committee has exhibited perseverance and diligence in securing and protecting the benefits which are so vital to the existence and well-being of those comprising the membership of our organization is deeply appreciated. Service widows are indeed grateful that DIC and other important benefits are sequestered from budgetary restrictions.

We would remind the Committee that Gold Star Wives of America does have a membership restricted to those whose husbands either died while on active duty or of disabilities incurred during such service. This does account for reference to ourselves as service widows rather than widows of veterans, for the husbands of many of us did not live to become veterans.

S. 9 - to increase the rates of Dependency and Indemnity Compensation

An increase is indeed a necessity in order to help compensate for the depreciation of income through inflation. For the past several years, we have had deepening concern for the widows in the lower ranks of the rate schedule. It is extremely difficult to explain to a struggling, elderly widow a CPI which indicates a given percent as being the rate of inflation when, in reality, her DIC increase is required to meet each of the inflated costs of the necessities of life -- housing, utilities, food, and medical costs.

We do not believe the consideration that should be given to DIC -- which is intended to compensate for the loss of a spouse due to service to his country -- should be equated with Social Security policies. Many occupations prior to WW II were not covered by Social Security, and DIC is the only source of income for many of the older widows. Each year those on the E-1 and E-2 rates stay just a step ahead of the poverty level.

S. 940 - to index rates of Dependency and Indemnity Compensation

We believe indexing would eliminate what we consider a valuable vehicle which is currently available for review of the DIC program. Without annual consideration, we would be especially concerned that the needed revision of the DIC formula would be continually delayed.

Gold Star Wives looks forward to the time the DIC formula can be revised. Each year the COLA continues on the current formula, the disparity between top and bottom of the schedule becomes more disproportionate. Under current budget problems, we realize the impossibility of funding the type of DIC formula revision that is merited and desirable. When restructuring is economically feasible, it must allocate available funds in a fair and equitable manner - and we recognize that an acceptable revision will not be easily reached.

Our organization requests that steps be implemented which would progress toward an acceptable formula. We believe the recommendation of Gold Star Wives presents a plan which would be fair and which inflation would not make obsolete: An equal Base Pay on which all COLA's would apply - plus a fixed amount based on rank and length of service. Under such a plan, every widow would always receive the same base pay and the dollar increase would always be the same for all benefit recipients.

Other DIC concerns

We believe passage of legislation to permit remarriage without loss of DIC is long overdue for consideration. It is discriminatory to deny this privilege to a service widow when the husband's contribution was his life instead of monetary. Few retired couples are sufficiently affluent for one income to provide complete support, especially if the health of one or the other is impaired. Permitted to marry, they could provide each other the emotional support and physical assistance necessary to possibly avoid nursing home residence for many years. We believe passage of such legislation would not result in a rush to the altar.

Gold Star Wives would like to see a more liberal interpretation of "aid and attendance" and "housebound" benefits. The "permanent" designation fails to provide for the person living alone who is faced with a condition which temporarily places her in a position that assistance is required. The loss of CHAMPUS or CHAMPVA coverage and the decreasing coverage of spiraling medical costs by MEDICARE is creating an extreme hardship among our members.

Thank you for the opportunity to participate in this hearing. I shall be pleased to address any questions the Committee may have.

PVA

PARALYZED VETERANS
OF AMERICA

Forty Years of Service
1947-1987

STATEMENT OF

FRANK R. DEGEORGE, ASSOCIATE LEGISLATIVE DIRECTOR

PARALYZED VETERANS OF AMERICA

BEFORE THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

REGARDING

VA COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION,
RADIATION EXPOSURE BENEFITS, FORMER PRISONER OF WAR COMPENSATION,
AND OTHER BENEFITS LEGISLATION

S.9, S.453, S.917, S.919, S.940, S.1002, S.1090, S.1365

JUNE 30, 1987

Mr. Chairman and Members of the Committee, on behalf of the members of Paralyzed Veterans of America, a Congressionally chartered veterans' service organization, I want to thank you for this opportunity to present our views regarding certain legislative initiatives. I am Frank R. DeGeorge, Associate Legislative Director. We appreciate your continued efforts to conduct these important hearings intended to improve veterans' programs.

S.9

"SERVICE-DISABLED VETERANS' BENEFITS IMPROVEMENT ACT OF 1987"

INTRODUCED BY SENATOR ALAN CRANSTON

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

Mr. Chairman, thank you for your effort to introduce S.9, to provide a rate increase for Disability Compensation and Dependency and Indemnity Compensation, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased, effective December 1, 1987.

PVA is supportive of Section 2. It is consistent with the historical intent of Congress to insure that veterans', their dependents' and survivors' benefits are provided at an appropriate level of income maintenance. PVA supports this legislation, but only with the promise that an adequate cost-of-living increase be provided, in a timely fashion, and that the Committee insure that the rate of increase be no less than the actual impact of inflation over the preceding 12 month period since the last rate adjustment. PVA has supported H.R. 1084, pending further action in the House; this measure provides a 3.5 percent COLA, amended to read 4.1 percent in accordance with House Concurrent Resolution 93.

DEPENDENCY AND INDEMNITY COMPENSATION

Regarding the Dependency and Indemnity Compensation (DIC) program, which provides for the service-connected disabled veterans' survivors, I would like to take advantage of this opportunity to reiterate PVA's longstanding position, as we remain discontented by the awarding of DIC benefits based solely on military pay grade rather than on the veteran's degree of disability. PVA has previously submitted our concerns for the record.

PVA understands the rationale for awarding benefits based on military pay grade when a serviceman dies while in active military service. However, when a service-connected disabled veteran dies from service-connected injuries years after termination of military service, we believe, and have testified on numerous occasions, that there is little or no correlation for using military pay grade as the basis for computing the DIC benefit for a surviving spouse.

It is well documented that the cost of continous attendant care can greatly exceed the maximum aid and attendance allowance (A&A) given for service-connected disabilities. Furthermore, as is often the case, the spouse of a severely disabled veteran provides the extensive care needed by the veteran because of his service-connected disability.

The result is that despite a helpful A&A allowance, the spouses of service-connected disabled veterans often must provide daily time-consuming services which these veterans cannot obtain or provide for themselves. Spouses' services produce great savings for the government in situations where, without their assistance, veterans otherwise would require institutional care. This savings, reflected by in-home care provided by the spouse, cannot be overemphasized, especially when considering the astronomical cost of medical care today.

Most veterans, especially those who served in wartime, were not careerists, but were citizen soldiers who simply answered their nation's call to duty. Consequently, the majority served in the lower military pay grades, where debilitating injuries were most prevalent. Basing DIC on military pay grade, not on the degree of disability, therefore leaves many surviving spouses with inadequate benefits after the death of the veteran. This happens despite the service rendered to the nation, both by the veteran and by the surviving spouse who had assisted the veteran in living a meaningful life, free from costly institutions.

Upon becoming widowed, a surviving spouse who receives DIC may be willing to seek employment, but in many cases she would not have marketable skills (due to the constant care that she provided the veteran until his death). In addition, the spouse often must seek employment at an unrealistic and most difficult time in life, a time when others of comparable age are beginning their retirement.

PVA proposes that the formula for computing a surviving spouse's DIC rate be established at 75 percent of the deceased veteran's monthly compensation benefit, excluding the portion paid for the veteran's aid and attendance. PVA must emphasize that present beneficiaries must not be harmed by any amendment of the DIC program. That is, existing beneficiaries should be "grandfathered" under the current law, if it is not to their benefit to elect DIC payments under the new rate structure.

PVA has long supported the need for an adequate survivor benefit program. The spouse and family members of certain eligible veterans, especially those catastrophically disabled, must be protected in the event of the veteran's death. Indeed, the Committees on Veterans' Affairs and Congress, have demonstrated their mutual concern for these needs by passage of prior legislation. However, PVA further believes that a periodic review of these programs is imperative.

SEC.3. SPECIALLY ADAPTED HOUSING ASSISTANCE

PVA supports Section 3 to provide an increase in the maximum grant for specially adapted housing assistance grants from $35,500 to $40,000, and to increase the specially adapted housing allowance from $6,000 to $6,775.

The first provision increases the special adapted housing assistance grant for "wheelchair" homes. The second provision in SEC.3 would increase the allowance for those service-connected blinded veterans and service-connected disabled veterans who have suffered the anatomical loss or loss of use of both hands, to make necessary adaptations to their homes. Mr. Chairman and Members of the Committee, we truly appreciate these improvements, for all of PVA's members are catastrophically disabled veterans, and we know all too well the difficulties associated with and the true value of affordable, accessible housing.

It is an understatement to say that the cost of housing has increased dramatically - the average cost of a new specially adapted home in 1976 was $48,000, but today that same house costs nearly $112,000. Through the Specially Adapted Housing Grant Program, the VA provides certain severely disabled veterans with an avenue by which they can begin to restore their lives to ones of independence and dignity. It should be noted that most homes are not built to accommodate persons with disabilities. Consequently, most homes must be remodeled for accessibility which entails certain necessary structural alterations and added costs. It is the modifications that make these homes appropriate residences for disabled veterans. This provision within S.9 allows service-connected blinded veterans and service-connected disabled veterans who have suffered the anatomical loss or loss of use of both hands, the opportunity to receive assistance in acquiring these residences that have already been specially adapted. PVA has emphasized and testified before to the importance of providing disabled veterans with opportunities to restore their lives to ones of independence and dignity to the fullest extent possible, and accessible housing is a vital part of this process.

SEC.4. SERVICE-CONNECTED DEATH BENEFITS

PVA supports this amendment to increase the maximum burial and funeral expenses award from $1,100 to $2,250. We appreciate your keen awareness to recognize the attributable expenses of dying. By your providing this amendment, it ensures keeping abreast with such increasing costs that are far beyond the control of the survivors of veterans who die from service-connected causes. PVA's members and their survivors, appreciate your efforts.

SEC.5. TOLLING EDUCATIONAL AND REHABILITATION ASSISTANCE DELIMITING PERIODS BY REASON OF INCAPACITY DUE TO DRUG OR ALCOHOL CONDITIONS

PVA agrees totally with, and favorably supports every aspect of this amendment that essentially will provide, restore, and/or extend educational benefits to members of the all volunteer force, to veterans with service-connected disabilities, to post-Vietnam era veterans, to Vietnam era veterans, and to survivors and dependents, due to conditions of drug or alcohol dependence/condition.

Mr. Chairman, as you stated when introducing this meaningful legislation, a similar measure, Public Law 95-292, the "G.I. Bill Improvement Act of 1977," extended the 10 year delimiting date to eligible veterans and eligible spouses who were prevented from pursuing educational programs due to physical or mental disabilities, not the result of willful misconduct.

Today, your bill corrects and removes inequities that may exist, which are associated with other differing severe disabilities.

SEC.7. AUTOMOBILE ASSISTANCE ALLOWANCE

PVA supports this amendment to increase the maximum automobile grant/allowance from $5,000 to $5,530. The rising cost of automobiles since 1984, the last time this award was increased, dictates the necessity of this legislation. It should be noted that as the current trend toward smaller cars continues, many disabled veterans are finding that they have to purchase larger, more costly models in order to accommodate their physical disabilities. This results in higher initial out-of-pocket cost to these veterans and, subsequently, higher state sales taxes, higher operating costs; insurance; gasoline; overall maintenance; and, in some states, license plate renewals.

S.453

"VETERANS' IONIZING RADIATION COMPENSATION IMPROVEMENTS ACT OF 1987,"

INTRODUCED BY SENATOR FRANK MURKOWSKI

AND

S.1002

"VETERANS' RADIATION EXPOSURE DISABILITY AND DEATH BENEFITS ACT OF 1987,"

INTRODUCED BY SENATOR ALAN CRANSTON

Mr. Chairman, there exists three bills in Congress that address Ionizing Radiation; they are S. 453, S. 1002, and H.R. 1811, which would establish presumptions of service connection, or provide for special consideration in adjudicating claims, relating to certain specified diseases suffered by veterans who have been exposed to ionizing radiation during the American occupation of Hiroshima and Nagasaki during World War II and during atmospheric testing of nuclear weapons.

As you know, Mr. Chairman, it is estimated that approximately 250,000 servicemen and women, from the mid-1940's to the early 1960's, were exposed to radiation through either participating in the nuclear weapons testing program, or in the occupation of Hiroshima and Nagasaki, Japan. At that time, concern was expressed regarding the possible dangers involved with nuclear testing, and the Atomic Energy Commission cautioned that troops involved in the nuclear tests might be exposed to harmful levels of radiation. And, history has demonstrated this has come true.

PVA believes that too much time has elapsed to ever adequately compensate those veterans who were exposed to radiation during these periods and have experienced adverse health effects, which is attributable to the exposure. But, the legislation being addressed here today and any actions taken hereafter by this Committee and Congress will be a much needed and deserved approach in resolving the substantive problems, the considerable scientific uncertainty surrounding the issue of atomic veterans, and the adjudication of their VA claims for service-connected disabilities.

PVA believes that there is a consensus of opinion as evidenced by the inclusion in all three bills, S. 453, S. 1002, and H.R. 1811 that certain diseases such as leukemia and thyroid cancer (included in two bills and being considered in the third), are the probable result of minimal levels of exposure to ionizing radiation. This is not to say that presumption for these two diseases are conclusive in the consideration for service-connection, but, with the absence of an accurate measurement of radiation exposure and the scientific uncertainty that still surrounds this issue, that these diseases have reasonably been proven to be the probable result of exposure to radiation. Therefore, veterans should be given the benefit of the doubt and claims for VA benefits for these conditions should be granted in favor of the veteran.

PVA applauds the authors of all three bills and supports the intent of the various legislation, and in amending Title 38, United States Code, by adding the provision of presumption of service connection for at least leukemia and thyroid cancer, and possibly other diseases as evidence would warrant. This would address, and begin to recognize the needs of veterans and their families for compensation long overdue by our government, by providing certain VA benefits to this particular group of deserving individuals.

Mr. Chairman and Members of the Committee, PVA supports the intent of the legislation being addressed here today, which would provide certain benefits to these veterans for illnesses attributable to the exposure to ionizing radiation, and to the survivors of veterans who participated in nuclear testing or in the occupation of Hiroshima or Nagasaki. PVA commends the Committee in addressing this most important and complex issue, and in moving forward to achieve a fair and equitable means of providing for this deserving segment of our veteran population and their families.

Additionally, PVA hopes that the scientific community will continue to aggressively pursue its investigation of the linkage between exposure and possible adverse health effects. Based on such evidence as results from their investigations, we believe this Committee and the Congress can further develop appropriate remedies for veterans who are shown to have suffered, based on reasonable evidence, service-related health conditions.

S.1365

TO AMEND TITLE 38, UNITED STATES CODE, TO ESTABLISH PRESUMPTIONS OF SERVICE CONNECTION FOR CERTAIN DISEASES OF FORMER PRISONERS OF WAR, INTRODUCED BY SENATOR BOB GRAHAM

Importantly, S.1365, introduced by the Honorable Bob Graham, will provide appropriate recognition to improve veterans' benefits for former Prisoners of War by amendment of Title 38, U.S.C., to add presumption of service-connection for certain disabilities.

They are: 1) peripheral neuropathy
2) irritable bowel syndrome
3) peptic ulcer disease

As PVA has previously stated, these provisions more clearly recognize and relate to the diversity and the ill treatment received by military personnel who have suffered through the ordeals, undeniable experiences, as prisoners of war. Amendment of the current law to add these certain illnesses incurred by POWs is realistic. Regardless of the number, large or small, of military personnel who may have experienced and were subject to the whim of the enemy military and/or government forces, PVA strongly believes this corrective legislation is warranted.

By virtue of amendment of Title 38, PVA applauds the consideration of this Committee to recognize the experiences of former Prisoners of War. PVA believes, as Members of this Committee do, that the services rendered by veterans who were former POWs can never be fully compensated by our grateful nation, and we are in accordance with the purpose of S.1365. Mr. Chairman, PVA wholeheartedly supports the favorable and expeditious passage of this measure, and H.R. 1543 and H.R. 1544, which are similar in the House.

S.917

TO AMEND TITLE 38, UNITED STATES CODE, TO AUTHORIZE A HEADSTONE ALLOWANCE FOR PREPURCHASED GRAVE MARKERS AND TO MODIFY ELIGIBILITY REQUIREMENTS FOR THE PLOT ALLOWANCE AND FOR OTHER PURPOSES. INTRODUCED BY SENATOR ALAN CRANSTON (BY REQUEST)

PVA has no position regarding Sections 1 and 2 of this act. Further, we yield to the wisdom of this Committee to approve or deny passage of this amendment. We are certain that you will ensure that veterans who are eligible for burial benefits will remain so.

PVA favorably supports Section 4 that amends subsection 1004(c)(2) of Title 38, United States Code, where the Administrator may provide for flat grave markers in the case of land transferred to the Department of Memorial Affairs from the Department of Medicine and Surgery for expansion of the national cemetery at Wood, Wisconsin. As we understand, this will tend to ensure the psychological well-being of inpatient veterans who, while receiving medical treatment, would have access to viewing this specific area of the cemetery. Again, PVA is supportive of this provision.

S.919

TO AMEND TITLE 38, UNITED STATES CODE, TO AUTHORIZE THE ADMINISTRATOR TO MAKE CONTRIBUTIONS FOR CONSTRUCTION PROJECTS ON LAND ADJACENT TO NATIONAL CEMETERIES IN ORDER TO FACILITATE SAFE INGRESS OR EGRESS, INTRODUCED BY SENATOR ALAN CRANSTON (BY REQUEST)

PVA has no objection to the self-explanatory amendment.

S.940

THE "VETERANS' COMPENSATION AND BENEFITS IMPROVEMENT ACT OF 1987," INTRODUCED BY SENATOR ALAN CRANSTON (BY REQUEST)

TITLE I DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION INCREASE

PVA strongly opposes passage of the effort to amend Title 38, United States Code, to index rates of Veterans' disability compensation and surviving spouses' and childrens' dependency and indemnity compensation to automatically increase to keep pace with the cost of living and for other purposes.

PVA opposes the provisions of SEC.101 to amend. Section 3112, Title 1 of Title 38, United States Code. Mr. Chairman, your bill, S.9, which we commented on earlier, in itself preserves the authority and appropriations processes of the Congress to determine what is necessary and to provide cost-of-living increases to the nation's veterans, their dependents and survivors. S.9 is consistent with your efforts, past and present.

The Administration's proposed Fiscal Year 1988 Veterans Administration budget includes proposed legislation that would index compensation benefits to the annual change in the Consumer Price Index. The Administration contends that, if enacted, this proposal would guarantee a full and timely cost-of-living adjustment to compensation beneficiaries, including DIC spouses and children. The Administration's proposal includes a cost-of-living increase currently estimated at 3.5 percent, effective December 1, 1987.

This legislative proposal to index compensation by the Administration and this provision of S.940 is absolutely unacceptable to PVA, and we oppose it. We believe it is an attempt to undermine and bypass the responsible authority of Congress. The COLA has required Congressional action annually, a process which PVA continues to believe ensures Congressional control and results in greater flexibility and fairness in a fluctuating economic climate.

TITLE II - ADOPTED CHILD AND INCOME EXCLUSION AMENDMENTS

(ADOPTION UNDER FOREIGN LAW)

The intent of SEC.201. to amend Section 101(4)(B), title 38, U.S.C., is basically correct. It provides measures to protect against abusive practices that could conceivably occur during the process and purpose of adopting children. PVA further believes the measure is not far reaching enough. We recommend modification or additional language. Certainly, provisions to insure that parents who adopt can provide the adequate means to support the adopted child should be incorporated into the adoption procedure. The language should include that the adoption of children of the veteran's spouse in foreign lands be court approved. Eligibility should include "or a blood relative."

INCOME EXCLUSION CASUALTY LOSS REIMBURSEMENT

PVA is supportive of Sec.202. to amend Sections 415(f)(1)(I) and 503(a)(5), title 38, U.S.C., that provides for reimbursement for any casualty loss to be excluded, not to exceed the fair market value of the property involved immediately preceding the loss.

PVA believes this action is an appropriately fair and just control. We would suggest the added language "or fair market replacement costs." An example is the cost of replacing a modified van/vehicle that may have been destroyed by fire. In this instance the fair market value may be $10,000, but the replacement costs are $30,000, the vehicle and adaptive equipment were insured for $20,000.

TITLE III - MISCELLANEOUS AMENDMENTS

(REINSTATED ENTITLEMENT PROGRAM FOR SURVIVORS)

PVA supports Sec.301 to amend Public Law 97-377. As PVA understands this section, a veteran who divorces and who has died, and his former spouse has not remarried, his/her dependent children will be reinstated for eligibility for VA benefits. PVA believes this legislation is humane and recognizes that dependent children should not have to suffer the consequences of a broken marriage.

INDEBTEDNESS OFFSETS BY OTHER FEDERAL AGENCIES

PVA strongly opposes the purpose of Sec. 302 and Section 303, which provides that in the event a person becomes indebted to the Veterans Administration by reason of an overpayment ..... that the VA may request the Secretary of the uniformed service to collect any portion of the indebtedness by deducting from retired pay or retain pay that may be payable.

PVA believes that this initiative is an infringement on earned benefits and placing receipt of same in jeopardy. We further believe that there already exists adequate means of recouping overpayments due the VA or any federal entity. These methods include suspending payment of future or continued payments, legal action, employ the services of collection agencies, and garnishment of wages, not to mention civil penalties that may be pursued. This infringement must not be employed solely for the sake of what appears to be a cost reduction approach to recoupment of overpayments due the VA.

DISCLOSURE OF SOCIAL SECURITY NUMBERS

PVA is supportive of Sec.304; we believe it is an excellent approach, but only for the intent and purpose of precluding the potential dual payment of compensation or pension benefits. This legislation will provide the Veterans Administration a good management practice and a tool that protects against possible fraudulent claims through the use of computer cross-match.

S.1090

"VETERANS ADMINISTRATION INSURANCE AMENDMENTS OF 1987"

(INTRODUCED BY SENATOR ALAN CRANSTON (BY REQUEST)

AUTHORITY FOR ANNUITY ADJUSTMENTS

Very briefly, PVA supports and appreciates the purposes and intent of S.1090. Our only comment refers to aspects of Section 806, "Veterans' Mortgage Life Insurance," which are not included in the bill. PVA remains concerned, as follows:

VETERANS' MORTGAGE LIFE INSURANCE (VMLI)

VMLI is a program of group-type mortgage life insurance for service-connected disabled veterans who have been granted a specially adapted housing grant under Chapter 21, Section 801 of Title 38 USC.

VMLI provides mortgage insurance for severely disabled veterans who would not otherwise be able to obtain coverage because of their medical conditions. The present maximum coverage is $40,000 and protection is automatic for the amount of the mortgage, up to the maximum of $40,000. The policy remains in effect until the mortgage, up to the maximum has been liquidated, or the home is sold; or until the veteran reaches 70 years of age, or dies. The strict criteria for eligibility for certain severely disabled service-connected veterans limits the VMLI program to a relatively small number of veterans, less than 6,000 nationwide, consequently the cost to the government is not great.

PVA believes the cost factors involved in new home construction are well known to all Members of the Committee. Mr. Chairmen, the figures themselves provide evidence of the escalating cost of housing. In the last 10 years, housing costs have risen nearly 2½ times, from $48,000 in 1976 to nearly $112,000 in 1987, it is clear that VMLI is not keeping pace with today's economic situation.

The following illustration shows that a veteran who buys a specially adapted house, utilizing the maximum amount of the VA grant and the maximum amount of VMLI, cannot be assured of providing mortgage-free housing for his spouse and dependents upon his death.

Today's Average Housing Cost	$111,800.00
VA Grant	(35,500.00)
Total Mortgage	$ 76,300.00
VMLI Protection	(40,000.00
Unprotected Mortgage Leftover	$ 36,300.00

Source: National Association of Home Builders

PVA has advocated that VMLI maximum coverage should be increased to more accurately reflect the increased amount of mortgage which is likely to remain after the veteran's death. PVA continues to receive correspondence from widows who are forced to sell the family home when faced with a high mortgage, increased taxes, and a drastically lower Dependency and Indemnity Compensation payment upon the death of the veteran.

VMLI should be increased to reflect the rising cost of housing and allow our nation's severely disabled veterans sufficient coverage to provide adequately for their families.

Mr. Chairman and Members, we recognize your compassion and your dedicated efforts to provide legislative initiatives improving programs for the veteran and his/her dependents. You not only believe it is the right thing to do, but you actively accomplish your purpose. Our thanks to you, the Committee members, staff, and the Congress. I will be happy to answer any questions that I can.

VETERANS OF FOREIGN WARS OF THE UNITED STATES

OFFICE OF THE DIRECTOR

STATEMENT OF

DENNIS M. CULLINAN, ASSISTANT DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO
VA COMPENSATION, DIC, PENSION, RADIATION, FORMER POWs AND OTHER VA BENEFITS

WASHINGTON, D. C. JUNE 30, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to present the views of the Veterans of Foreign Wars of the United States with respect to the numerous pieces of legislation affecting various VA benefits which are under consideration today. The VFW has endeavored to treat today's agenda as completely and comprehensively as possible given the relatively short period of time afforded to review these many legislative initiatives. Unfortunately, due to the time limitation, we will be unable to discuss all of these measures and their various provisions as fully as we would wish. We do wish to thank the Chairman and members of this Committee for affording us this opportunity to comment on these legislative initiatives which will affect so many of this nation's veterans.

The first bill under consideration today is S. 9, the proposed "Service-Disabled Veterans' Benefits Improvement Act of 1987." As requested, we will not address provisions relating to the VA home loan program since they have been covered at an earlier hearing.

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Section 2 of this bill would provide for a cost-of-living increase in the rates of disability compensation for veterans who suffer from service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of veterans who have died from service-connected disabilities. This compensation COLA would be in line with the one provided for social security and VA pension benefits effective December 1, 1987. CBO has estimated that social security increase would be 4.1 percent. The VFW supports this proposal.

Section 3 of S. 9 would provide an increase in the maximum amount of VA specially adapted housing assistance grants to certain severely disabled service-connected veterans as well as increasing the funeral and burial allowance for service-connected deaths. Effective October 1, 1987, the maximum amount payable in specially adapted housing assistance to certain totally and permanently service-connected disabled veterans would be increased from $35,500 to $40,000 or approximately by 12.5 percent. This section would also increase by 12.5 percent from $6,000 to $6,750 the maximum amount payable in adaptive housing assistance to certain veterans who suffer from service-connected blindness or who have suffered the loss or loss of use of two upper extremities. These rates have not been increased since January 1, 1985. The Veterans of Foreign Wars supports this provision.

Section 4 of this measure would also provide an increase from $1,100 to $2,250 for the allowance which the VA pays at the request of the survivors to defray the funeral and burial expenses for a veteran who dies of service-connected causes. According to the National Funeral Directors Association, a study by the Federation of Funeral Directors has found that the cost of an average adult funeral was $2,745 in 1986. In light of this fact and that this rate has not been increased since 1978, the VFW supports this provision which provides for this rather conservative and long-overdue upward adjustment.

Section 5 provides for total education and rehabilitation assistance delimiting periods by reason of incapacity due to drug and alcohol conditions. The VFW concurs that there is no substantial purpose to be served by denying a veteran a GI Bill delimiting period extension when the veteran had been prevented by a drug and alcohol disability from using the GI Bill educational assistance. Quite to the contrary, the VFW believes an important social goal is met by allowing such veterans to utilize their educational benefits when they are able and to thereby regain a productive role in society. Therefore, we support this section.

Section 7 of S. 9 would provide for an increase in the maximum amount of automobile assistance allowance provided by the VA to veterans with certain severe service-connected disabilities. This amount would be increased by 10.6 percent or from $5,000 to $5,530 effective October 1, 1987. The VFW supports this section.

Finally, section 8 of this bill would make permanent the Gramm-Rudman-Hollings' sequestration exemptions--currently for fiscal year 1987 only--for the VA's program of vocational rehabilitation for certain service-connected disabled veterans and the program of educational assistance for survivors and dependents of certain service-connected disabled veterans. The VFW strongly supports this section inasmuch as it is our firm belief that it was truly not the intention of the Congress to subject programs for service-connected veterans to cuts under the "Balance Budget and Emergency Deficit Control Act of 1985," P.L. 99-177. Thus, we support this section to provide unrestricted exemptions for these programs effective beginning FY 1987.

The next two measures under consideration today S. 453, "Veterans' Ionizing Radiation Compensation Improvements Act of 1987," introduced by the Ranking Minority Member of the Senate Veterans' Affairs Committee, Senator Frank Murkowski, along with Senators Domenici, Warner and Dixon; and S. 1002, "Veterans'

Radiation Exposure Disability and Death Benefits Act of 1987," introduced by the Chairman of the Senate Veterans' Affairs Committee, Senator Alan Cranston, together with Senators Simon, Matsunaga, DeConcini, Mitchell, Rockefeller, Graham and Pell are similar in intent so we will address them both collectively and individually. Both of these measures address the two primary reasons that over 99 percent of all claims for Veterans Administration (VA) benefits filed by veterans suffering from radiation related disabilities have been denied. The first reason that these veterans have been virtually shutout of the VA compensation system is that, more often than not, it is virtually impossible to determine absolutely whether a given veteran's disability was caused by his exposure to radiation incident to his service in the Armed Forces. The second reason for this most unfortunate situation is the grossly underestimated radiation exposure level of these veterans by the Defense Nuclear Agency (DNA) that the VA relies on in adjudicating such claims. The two bills under discussion would not only add to the list of presumptive disorders for peacetime and wartime disability and death compensation, but would also amend Title 38 to establish compensatory systems to augment the VA's current procedures for adjudicating these claims so they may be granted without fully meeting the VA's standard for establishing a causal relationship between a service related incident and a resultant disability.

Under S. 453, veterans who were exposed to ionizing radiation as a result of their participation in the atmospheric nuclear testing program or the occupation of Hiroshima and Nagasaki shall be presumed to have a service connected disability if they suffer from or die as a result of all forms of leukemia, except chronic lymphatic leukemia, becoming manifest within 30 years after the last date of a veteran's exposure to radiation; liver cancer becoming manifest five or more years after the last date of such exposure; and multiple myeloma or cancer of the bone marrow also becoming manifest five or more years after a veteran's exposure. The association of these blood related cancers with radiation exposure is very strong and the likihood of their having another cause is only very slight. Thus, we strongly support adding these diseases to the VA's list of presumptive disabilities and would only recommend that the 30-year limit for the manifestation of the various forms of leukemia be eliminated. Another provision of S. 453 would require that for the purpose of adjudicating claims for VA benefits for disabilities or deaths associated with exposure to ionizing radiation, veterans exposure estimates as reported or reconstructed by the DNA would be doubled. Although not a perfect or conclusive answer, this is certainly a step in the right direction toward correcting the often grossly underestimated assessments of individual veteran's exposure to atomic radiation. In our view, requiring the VA to double the dose estimates, as reported by the DNA, is certainly justified, and, if anything, it should be viewed only as a rather conservative adjustment. We would point out, however, that this adjustment does not help those for whom there is no known exposure level or who are not able to establish their presence at a given test site.

The next bill, S. 1002, would establish a new chapter under 38 USC which will establish a separate category or group of presumptive disorders for radiation survivors which would be paid at a rate either equal to that provided in chapter 11 or 13 of Title 38 or at the rate of 50 percent of such compensation. Special consideration would also be given to claims for compensation by a veteran or survivor of a veteran when the veteran develops a disease which has been shown to be somewhat associated with radiation.

The first provision of S. 1002 would provide disability and death payments to radiation-exposed veterans for cancer of the thyroid when manifest five or more years after exposure and leukemia manifest within 30 years after such exposure. These payments would not be regular Title 38 compensation and DIC payments but would be treated as such for all other purposes. The VFW certainly concurs that these disabilities should be compensated. We are also of the opinion that when the results from the Operation Crossroads Study are available some two and one-half years from now, any additional diseases which may then be deemed attributable to radiation exposure should be added to the list of presumptive disorders and that all of these disorders should at that time be added to the list of presumptive disorders contained under Title 38 and then accorded regular VA compensation. If the results are inconclusive with respect to additional disorders, we would ask that the aforementioned disabilities of cancer of the thyroid and leukemia then be included as regular presumptive disorders under Title 38.

The bill's second major provision would provide for two categories of disabilities to be paid at two different rates. Cancer of the thyroid manifested five or more years after radiation exposure and leukemia when menifested with 30 years, diseases which are strongly associated with radiation, would be paid at full Title 38 rate. Cancers of the colon; small intestine; stomach; liver, except where cirrhosis or hepatitis B is indicated; bile ducts; gallbadder; pancreas; lymphomas, excluding Hodgkin's disease, and multiple myeloma would be paid at 50 percent of the Title 38 rate since they are designated in S. 1002 as diseases with only a moderate association with radiation. In light of the high degree of scientific uncertainty surrounding this issue together with the enormous suffering endured by our atomic veterans through the years, the VFW strongly supports providing atomic veterans suffering from the aforementioned disabilities with VA compensation. Although we are of the opinion that when a given disability is associated with a veterans' service-related radiation exposure, then that veteran should receive full compensation, we also understand that due to the weak scientific link connecting these diseases with radiation exposure that the compensation formula posed in S. 1002 is the most viable course to pursue at this time. We insist, however, that when additional scientific evidence further establishes the link between these diseases and radiation exposure, veterans suffering from these disabilities will receive full compensation. The VFW applauds this legislation's recognition that atomic veterans are suffering from these disorders and its attempt to provide some measure of restitution from a grateful nation.

Another major provision of S. 1002 would require the VA to give special consideration to the adjudication of claims for diseases which only have a weak association with radiation exposure. This special consideration would include the VA giving conclusive weight to findings relating to the relationship between the disease and ionizing radiaton exposure in the process of evaluating the claim and in the context of the veteran's exposure. Since these diseases, listed in the bill, are various cancers and given the strong body of scientific evidence linking cancer with radiation exposure, the VFW strongly believes any uncertainty with respect to a claim for benefits by a radiation-exposed veteran should be resolved in his or her favor.

The VFW supports the provision in S. 1002 which provides that a radiation-exposed veteran or that veteran's survivor who is receiving benefits at the rate of 50 percent of regular compensation or for special consideration, would retain the alternative of achieving entitlement to full compensation under Title 38.

The next major provision would, using a different method but with a similar intent to the provision contained in S. 453, require that the DNA radiation exposure estimates be adjusted upwards according to a specified methodology when a radiation-exposed veteran or a survivor thereof applies to the VA for benefits. This recalculation would be based on the estimated amount of radiation exposure received by members of the veteran's branch of service in the nuclear weapons testing operation in which he participated or the estimated exposure received by participants in all branches of service in that operation whichever is more favorable for the veteran. Basically, if the DNA radiation exposure estimate indicates that 25 percent or more of the participants in a given test were exposed to more than three rems of ionizing radiation then five rems would be added to the veteran claimant's DNA estimated radiation exposure; if the participants were exposed to more than one rem of radiation but less than three rems, three rems would be added to a given veteran's estimated radiation exposure; finally, if 25 percent or more of the participants were exposed to an excess of 0.5 rem up to one rem, then one rem be added to the veteran's DNA exposure estimates. Finally an additional one rem would be added to the radiation exposure estimates of those veterans who were exposed to radiation through their participation in the American occupation of Hiroshima and Nagasaki.

Certainly, the VFW favors upwardly adjusting the often severely underestimated DNA exposure estimates of this nation's atomic veterans. As is the case with the equivalent provision of S. 453, which would simply double these exposure estimates, it is a completely justified and fairly conservative attempt to establish at least a modicum of compassion and fairness with respect to adjudicating radiation-exposed veteran's claims for VA benefits. One advantage to S. 1002's method is that those veterans who have no record of their radiation exposure or who cannot establish their presence at a given site would at least be given the chance to establish their entitlement to a service-connected claim for a radiation related disability through the records of their fellow participants. Doubling the DNA exposure estimate, on the otherhand, enjoys the advantage of uniformity and simplicity as well as allowing for a more accurate upward adjustment for those veterans whose exposure estimate is moderately high. The VFW would therefore favor coupling these two methodologies, at the very least, allowing whichever of these two means of recalculating exposure that is most in a given veteran's favor to be utilized. This would not, of course, constitute a perfect solution but nonetheless would make a valuable contribution toward redressing a grievous injustice.

The VFW favors the provision which would require the reports of the Veterans Advisory Committee on Environmental Hazards, as required under Public Law 98-542, be sent concurrently to the Senate and House Veterans' Affairs Committees as well as to the Administrator of Veterans Affairs. With respect to the remaining two provisions to be addressed here today which respectively call for the termination of the provisions as contained in S. 1002 on September 30, 1990, and extend the entitlement to VA health care for ionizing radiation-exposed veterans as provided in section 610 (a)(1)(g) of Title 38 USC until Septemer 30, 1990. The VFW would support making these provisions a permanent part of Title 38 at that time. The need of this nation's atomic veterans along with the injustice they have endured are real, so we would strongly support legislation to prevent any more suffering or uncertainty by guarantying their eligibility and access to VA compensation and health care.

The next bill under consideration is S. 1365 which is a bill to amend Title 38 USC, to establish presumptions of service connection for certain diseases of former prisoners of war. This bill would allow ex-POWs to qualify for presumptive compensation in three physical categories--peripheral neuropathy, a condition that results in muscular atrophy in the foot and wrist, irritated bowel syndrome, sometimes referred to as spastic colon, and peptic ulcer disease. Former prisoners of war who were held in captivity for 30 or more days would not be required to present documentative proof of injury in these cases in order to qualify for compensation payments, provided that these conditions existed within 10 years after the last date of the veteran's detention. This bill is taking a step toward recognizing that the starvation, deprivation and brutality experienced by so many of our former POWs severely damaged their bodies and will therefore allow these veterans suffering from the aforementioned disorders to deservedly receive VA compensation. The VFW supports this bill and would only ask that the 10-year manifestation period be eliminated since we believe that in some cases these diseases would not be manifest or their manifestations would not be recognized within the prescribed 10-year period.

The next bill under consideration today, S. 917, introduced at the request of the Administration, would authorize a headstone allowance for pre-purchased grave markers, modify eligibility requirements for plot allowance and authorize the utilization of flat grave markers in the expanded section of the National Cemetery at Wood, Wisconsin. The Veterans of Foreign Wars supports section 101 of this bill which would amend Title 38, USC, to permit payment of the headstone or marker allowance to the estate of the deceased veteran who purchased the headstone or grave marker prior to his or her death. It would also permit the VA to reimburse an estate for engraving the prepaid memorial after the veteran death. The Veterans of Foreign Wars also supports section 301 of this bill which would repeal section 1008(b)(1) of Title 38 which limits the amount of federal funds which may be received under the State Cemetery Grant Program. The VFW views this as a technical amendment to the program which would enhance flexibility and enable it to more efficiently and equitably deal with carry-over funds. Section 401 of this bill would exempt a newly acquired portion of the Wood National Cemetery from the statute which mandates the erection of upright grave markers. This land directly abuts the VA Medical Center in Wood, Wisconsin, and the VFW concurs that the erection of upright grave markers would be more conspicuous from the nearby medical facility and could adversely affect patient care. Therefore, the VFW supports this action.

The VFW strongly opposes section 201 of this bill which would amend the eligibility criteria pertaining to the plot allowance. In effect, the amendment would adopt the same criteria as pertain to the burial allowance benefit. This would effectively restrict eligibility to the plot allowance to veterans entitled to disability compensation or pension at the time of death or to certain institutionalized veterans. Under current law, veterans with wartime service are eligible to receive the plot allowance. Given that the plot allowance is only $150 and that it is the single veteran's benefit usable by all wartime veterans and indeed stands as the final tribute of their service, the VFW is absolutely appalled at this attempt to deprive them of the nation's final token of gratitude.

S. 919, introduced at the request of the Administration, would authorize the Administrator to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress. The VFW supports this legislative initiative to authorize the Veterans Administration to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to a national cemetery in order to ensure safe access to these cemeteries for veterans and their dependents. The VFW views this proposal as well advised and in keeping with the VA's mission of serving veterans.

S. 940, introduced at the request of the Administration, would provide for the automatic annual indexing of the rates of disability compensation and DIC to keep pace with the cost of living; sets standards governing recognition of an adopted child for purposes of entitlement to VA benefits; provides for the exclusion, for the purpose of parent's DIC and pension income computation, or reimbursement from any source for property lost suffered by any cause to the extent of the fair market value of that property; and proposes various miscellaneous provisions. Of this bill's sections, the VFW objects to section 101 which would authorize automatic annual increases in the rates of disability compensation and DIC for surviving spouses and children, based upon changes in the Consumer Price Index (CPI). The VFW holds that this would be detrimental to veterans inasmuch as it would reduce congressional oversight of the program by substituting an automatic indexing mechanism for the personal attention of the Congress. The Congress has historically been both well-atuned to the needs of veterans and fair in the provision of the means to meet these needs. In short, we do not wish to see the careful consideration and attention of the Congress replaced by the inhuman dictates of the CPI.

The VFW strongly objects to section 303 of this bill which would amend Title 38 to authorize offset for veteran's disability compensation and pension to collect overpayments for military retired pay and retainer pay. The withholding of veteran's benefits to satisfy the claims of creditors is righfully barred by 38 USC 3101(a). This means that except on a voluntary basis, offset of a veteran's benefit to satisfy indebtedness, including indebtedness arising out of programs administered by other federal agencies, is prohibited. The VFW is of the opinion that compensation and pension payments which are both renumeration and recognition of the terrible sacrifices made by some of this nation's wartime veterans must never be touched.

At this time the VFW has no objections to any of this bill's other provisions.

The last bill under consideration today, S. 1090, introduced at the request of the Administration, would provide authority for higher monthly installments payable to certain insurance annuitants, and exempt premiums paid under Servicemen's and Veterans Group Life Insurance from state taxation. The VFW supports section 101 and 102 of this bill which would authorize the Administrator to periodically increase the dollar amount of monthly annuity benefits payable to beneficiaries under SGLI, NLSI, VSLI, and VRI government insurance programs. This would allow gains derived from these accounts to be distributed to the beneficiaries of these programs. The VFW strongly favors section 201 of this bill relating to Servicemen's (SGLI) and Veteran's Group Life Insurance (VGLI) programs to exempt premiums from state taxation.

Finally sections 301 and 302 of this bill would amend 38 USC 806 to authorize the VA to assume all administrative functions under the Veterans Mortgage Life Insurance (VMLI) program. The VMLI program provides automatic mortgage life insurance coverage to disabled veterans who receive VA assistance in obtaining specially adapted housing. Given that the VA Insurance Centers in St. Paul, Minnesota, and Philadelphia, Pennsylvania, have already assumed substantial administrative responsibilities for the VMLI program and that the government remains responsible for liabilities incurred under the program, the VFW has no objection to this proposal.

Mr. Chairman, this concludes the VFW's testimony for this hearing, I will be happy to respond to any questions you may have.

Testimony of Senator David Pryor
Before the Senate Veterans Affairs Committee
June 30, 1987

HELP OUR ATOMIC VETERANS

Mr. Chairman, thank you for allowing me to testify today on behalf of the atomic veterans in my home state of Arkansas. I have identified 200 veterans in Arkansas who were exposed to dangerous levels of radiation during service to this country. Two weeks ago I met with 60 of these men to discuss their inability to get V.A. benefits for radiation-related sicknesses and the need for help from Washington.

That group of men and their families asked me to thank you, Senator Cranston, and the members of this Committee for working on legislation to help atomic veterans with their special problem.

At our meeting in Arkansas, I heard that many of our atomic vets had given up hope that a law would ever be passed to help them. I heard that many atomic vets have already died of cancer apparently caused by radiation exposure. They died not knowing how their survivors would handle the financial burdens left by their illness.

It is no wonder they had lost hope. For 40 years the U.S. Government turned its back on these men -- unwilling to accept responsibility for the consequences of exposing over 200,000 soldiers to dangerous levels of radiation.

Mr. Chairman, I would like to submit for the record a statement given to me by an Arkansas man who sailed on the **U.S.S. Hesperia** during the 1946 Operation Crossroads nuclear tests at the Bikini Atoll. The **Hesperia** observed one atmospheric test and visited the site of another on the day after the detonation.

The most troubling aspect of my constituent's statement reads, "A careful search of Crossroads radiation data revealed that no one aboard **Hesperia** (had a radiation exposure badge) for the operation." In other words, the Defense Department has no accurate measure of how much radiation the crew was exposed to.

The lack of exposure monitoring was pure negligence on the part of DoD and has only complicated the difficult task of helping the deserving individuals who have suffered from radiation exposure.

Mr. Chairman, your long-awaited legislation answers the prayers of many Americans. I pledge my support for your bill and on behalf of the irradiated vets in my state, I thank you for your efforts and urge passage of this bill at the earliest possible time.

HISTORY OF USS HESPERIA (AKS-13)
DURING OPERATION CROSSROADS (1946)

Operation CROSSROADS was a two-detonation atmospheric nuclear test series occurring at Bikini Atoll in July 1946.

HESPERIA arrived in the Marshall Islands in June 1946 as part of the repair and service unit. It served as a supply ship throughout the operation. At 9:00 a.m. on July 1, when the first CROSSROADS event, Test ABLE (air detonation) occurred, HESPERIA was anchored at Kwajalein Atoll, some 155 miles southeast of the test site. That afternoon the ship departed Kwajalein, anchoring at Bikini Lagoon at 12:22 p.m. the following day. Test ABLE is known to have caused only minor radiological contamination to the lagoon waters. At 12:34 p.m. on July 2, HESPERIA got underway to shift berths, anchoring in its new location at 1:49 p.m.

Except for participating in a rehearsal exercise on July 18 and 19, HESPERIA remained in Bikini Lagoon performing routine activities until July 24. It then departed the lagoon and at 8:35 a.m. on July 25, observed the second CROSSROADS event, Test BAKER (shallow underwater detonation) from a distance of 15 miles. Seventy-five minutes later HESPERIA departed for Rongelap Atoll, arriving at 4:23 p.m. that afternoon. Rongelap is some 65 miles east of Bikini. On July 29, HESPERIA departed Rongelap for Bikini, anchoring there at 8:57 a.m. the next morning. By then the radioactivity in the lagoon had abated to a safe level (less than 0.1 rem gamma per 24 hours). The ship changed berths twice in the morning of July 30, twice in the morning of August 2, once on August 7, and once on August 14.

At 9:00 a.m. on August 22, HESPERIA was inspected for radioactivity by the Radiological Safety Ship Clearing Board of Joint Task Force ONE. With the exception of the ship's evaporators, HESPERIA was found to be radiologically clear. On August 23, it got underway for Kwajalein arriving the next day. It remained at Kwajalein until August 31 when it left for Pearl Harbor, arriving September 12, 1946.

HESPERIA was one of the operating ships in CROSSROADS whose involvement caused it to be temporarily listed as radiologically suspect. A degree of contamination did occur to virtually all of the non-target ships that remained in Bikini Lagoon for over ten days following Test BAKER. This was largely caused by low level radioactive contamination of the lagoon waters following Test BAKER and was generally confined to the internal salt water piping systems and the exterior hull at the waterline. However, in order to prevent contamination of the drinking water, CROSSROADS ships were instructed to scrape off marine growth near the waterline, not to steam evaporators in excess of 80%, and not to dismantle the evaporators without a radiation monitor being present.

A careful search of CROSSROADS dosimetry data revealed that no one aboard HESPERIA was badged for the operation. It was common practice during CROSSROADS to obtain representative personnel exposure data for most ships by badging a percentage of the crew. Because of the limited number of film badges it appears that they were generally issued to those personnel, or groups who had the greatest potential for exposure. Apparently the crew of HESPERIA was not considered to be one of these groups.

Overall, the radiation exposures for Operation CROSSROADS are relatively low. Approximately 99% of all radiation exposures ranged from zero to 0.5 rem gamma. The highest recorded cumulative exposure for an individual at CROSSROADS was 4.01 rem gamma. This exposure is within present national occupational radiation exposure standards which permit 5.0 rem per calendar year.

Testimony on Behalf of The National Association of Atomic Veterans

Presented to the

Committee On Veterans' Affairs

of

The United States Senate

June 30, 1987

Submitted by

Thomas J. Houser, Esq.

and

Robert S. Faron, Esq.
Barnett & Alagia

Mr. Chairman, my name is Robert S. Faron. I am a member of the Board of Directors of the National Association of Atomic Veterans.

I am here to testify on S. 1002 and S. 453 and to comment on H.R. 1811 bills which would, in different ways, establish presumptions of service connection or provide for special consideration in adjudicating claims for compensation and disability relating to certain diseases suffered by veterans who were exposed to ionizing radiation during the American occupation of Hiroshima and Nagasaki during the concluding months of World War Two and during atmospheric testing of nuclear weapons.

The National Association of Atomic Veterans is extremely pleased over the introduction of S. 1002 and S. 453 and the hearings which are being held today with regard to these bills. We are thankful that after 40 years the Congress has recognized the problem facing those American citizens who were exposed to the unhealthy effects of radiation and who have suffered, without recognition, without medical care, and without disability and compensation benefits to which they would otherwise have been entitled had they been wounded, injured or maimed in combat and suffered traumatic injury or had symptoms of their exposure appeared during or shortly after their service careers.

The essential element of these bills is that by their passage, the country will recognize a service connection to the injuries of these Americans based on exposure to radiation. S. 453, and the House Bill, H.R. 1811, in particular would establish by presumption a service connection to the exposure of these heroic Americans to radiation at the test sites and during the American occupation of Hiroshima and Nagasaki. S.1002 establishes a parallel procedure for compensating radiation exposed veterans who are suffering or have suffered certain diseases. These bills bypass the position which has previously led to stalemate in addressing these extremely important issues, since they avoid an attempt to place upon the atomic veteran the burden of proving legal causation of his injury based on the scanty evidence of exposure available, and the uncertain scientific understanding of causation which exists today. This is a task which no lawyer would relish and indeed would be able to accomplish in a court of law. Instead of litigation, these bills offer an opportunity to the veteran to utilize the resources of the Veterans Administration in seeking relief based upon generally understood presumptions concerning the relationship of exposure to radiation and resulting diseases, but without the enormous burden of establishing legal proof. It is just such a burden which has made litigation of these issues a dead end for all atomic veterans to date.

The General Accounting Office (GAO), based on a two-year study of radiation exposure and radiation safety measures during Operation Crossroads in the 1946 nuclear weapons test series in the Pacific, has found that estimates of radiation exposure prepared by the Defense Nuclear Agency (DNA) for that operation may have significantly understated the actual ionizing radiation exposure received by participants in Operation Crossroads. But when these veterans have attempted heretofore to utilize the services of the Veterans Administration based upon these radiation exposure estimates, the VA, in evaluating claims, generally has denied claims made by veterans or veterans' survivors for compensation in connection with their radiation exposure. The present process for adjudicating radiation exposure claims that has been based upon radiation exposure estimates has not resulted in the fair adjudication of these claims. According to the GAO, such claims, particularly those involving health effects with long latency periods, have resulted in award of benefits to only 25 of more than 6,000 claims for compensation or dependency and indemnity compensation filed by veterans and their survivors for disabilities claimed to have resulted from radiation exposure.

This experience record certainly agrees with the experience of our members, who have found that the burden of proving causation linked to the service activity has been too great a barrier to overcome. The precise correlation between specific doses of ionizing radiation, particularly at low levels, and the probability of cancer induction in a particular body organ or tissue in a given individual, is not known at this time. What is known is that certain body organs and tissues, not otherwise susceptible as to other risk factors, have shown a high susceptibility to induction of cancers from ionizing radiation.

It is for just such a reason that it is important that this Congress pass a bill like S.453 or S.1002 in some form. It is important to recognize that the elements of (1) basing service connection on exposure (2) presuming the causal effect of exposure, and (3) shifting the burden of proving negative causation to the government, are important elements in establishing a compassionate response to the needs of these American soldiers and their dependents who served their country in a manner which put their lives on the line twice: once during the time of the atomic operations and thereafter in the constant deterioration of their health based upon effects suffered from exposure during their service period.

Also it is important that S. 1002 and S. 453 establish a mechanism to provide atomic veterans a response without having to point blame at any particular entity. These soldiers are simply being awarded their due benefits.

Each of these Americans involved in the occupation of Hiroshima and Nagasaki or in the atomic testing of our nuclear weapons system responded to the call of duty based upon their training as military personnel and their patriotic response to their duty to serve their country. We contend that they entered into an implied social contract, upon their enlistment, that they would be treated as any other servicemen who suffered injury during their service period. These American soldiers responded, based on a faith and trust in their country and with the knowledge and understanding that should they be injured, the system of veterans' care established for this country's veterans would be available to them as it would to all veterans of the Armed Forces of the United States.

It is the purpose of this legislation to make available those benefits to these atomic soldiers. We have supported S. 453 when it was introduced in February by Senators Murkowski, Domenici, Warner and Dixon, and immediately focused the debate on the need to recognize the contribution of the atomic veteran and avoid breaching America's social contract with its servicemen. We are also pleased that the debate has been heightened by the introduction of S. 1002, introduced by the Chairman of the Senate Veterans' Affairs Committee, Senator Cranston, and Senators Matsunaga, DeConcini, Mitchell, Rockefeller, Pell and our good friend Senator Simon. We have also supported the efforts of our good friends, Representatives Rowland, Applegate, Hammerschmidt, Montgomery, Solomon, and McEwen who introduced H.R. 1811. Through their introduction of and sponsorship of these bills, the Senators and Congressmen who have supported our efforts have earned our respect and our gratitude. We are indeed pleased to see this outpouring of response in both houses and from members of both political persuasions who are concerned enough to address this problem.

We would be delighted to see any one bill voted out. It is clear that, realistically, a bill along the lines of Senate bill,

S. 453 or S. 1002 and the House version, H.R. 1811, could be reconciled in conference. We leave the task of reconciling the details of these bills to those members and their able staffs who have studied this issue long and with great diligence and compassion.

(1) In our opinion the most sensitive question to be discussed and reconciled is, what is to be the scope and interpretation of the trigger word "manifestation." For example while we understand the need for choices in light of the budgetary constraints facing this country, we particularly urge reconsideration of the proposal to set a 30 year cut-off on manifestations of diseases cited, so as not to deny eligibility to the troops exposed at the 1945 "hot" occupation of Japan, and to the 42,000 troops rained on at the 1946 radioactive test shots at Bikini -- Able and Baker. The government has acknowledged cases in which claims based on earlier "mainfestations" have been grossly delayed, bungled or lost. The record is repleat with examples of missing records, secret classifications, misdiagnosed cases, and bureaucratic neglect. Surely, it cannot be the intention now to sweep all of this dismaying neglect under the rug. An actuarial time clock is ticking for these older atomic veterans of World War II who will not be able to benefit from the results of this bill if its spirit is not carried out in its implementation.

(2) There are other concerns. For example is it credible, at this late date to differentiate among veterans who stood

side-by-side in harm's way? Any legislation which has the effects of segregating atomic veterans could prove in our judgment to be divisive. Moreover, it could foster litigation rather than allowing an established VA compensation system to respond. Exposure to radiation must be recognized for what it is -- injurious to body tissue and organs. The scientific community cannot set a limit below which radiation will not impose some risks of injury over time. We therefore would prefer that you adopt an approach establishing a presumption based on exposure and not segregate veterans who stood together at these tests. However, if the intention of establishing categories of veterans' compensation is to make available at least some additional benefits to the broad number of veterans suffering diseases attributable to some degree of radioactive exposure, while leaving open the possibility that scientific study can soon come forth to support their ultimate full inclusion in the compensation system, then we could support such a proposal.

(3) If this committee selects an approach that presumes service connection based on exposure for certain diseases we urge that it follow the same path as the House Veteran's Subcommittee recently did in expanding the number of cancers recognized as service connected in H.R. 1811. Thus we believe that certain additional cancers (kidney, urinary-bladder, bronchogenic, breast, esophagus, stomach, small intestine, colon, pancreas, bone and bone marrow) should be added to the recognized diseases

for which a presumption of service connection is granted at the same time the period of manifestation is extended.

(4) Dosage reconstructions have always been controversial. As recently as April 9, 1987, the Chairman of this Committee said "Very serious questions" have been raised "about the degree to which credit could or should be given to bland and blithe assurances from the Department of Defense that the Defense Nuclear Agency's exposure estimates were accurate and that there was generally no significant exposure to radiation among the Veterans who participated in the nuclear weapons test program." We see a need to address this issue in a comprehensive presumption rather than a specific manner which simply manipulates acknowledged error. Dosage should not be the basis for denying claims. However, we have no objections to any mechanism which attempts to enhance atomic veterans' claims for radiation exposed injuries that fall outside of the diseases that are provided presumptive status for compensation. Indeed should we not look to ways to open opening up the claims procedures to victims, who, like my father, were exposed but who have an unspecified blood disease?

(5) Why is there the need to terminate the hard-fought benefits of this bill three years after its enactment, especially since the program may take that long to rectify the long list of mishandled claims already in the system, and to begin to process the backlog of stalled claims yet to be addressed? If the intention is to provide the opportunity to review the results of

the compensation system passed, with the view of forcing consideration of the eligibility of additional concerns or diseases in light of increased scientific awareness of the effects of exposure, could there not at least be a firm commitment at the time of passage to continue the benefits of that law to eligible veterans.

However, unlike other witnesses who may have appeared before this Committee at some point in time, NAAV is not attempting to win a settlement of this complicated problem in a single spectacular agreement. Nor do we believe that resort to the courts is a desirable or profitable way to provide an effective alternative to compensation through the Veterans Administration system. While some see vindication of their rights through the legal process to be a "right," we see this approach as leading to a long and difficult road to overcome numerous barriers for an uncertain result. We believe it is more in keeping with the unstated contract implied by the acceptance of a citizen of this country into the Armed Forces to have available those resources for veterans' care granted to members of the service. We do not seek to lay blame or liability on anyone. The issues leading to assessment of appropriate liability are too difficult for us or anyone to resolve, and to make such an effort would only result in being turned from our primary goal of providing compensation and disability benefits to the atomic veterans and their dependents.

We are anxious to support Chairman Cranston and the ranking Minority Member, Senator Murkowski, who are genuinely trying to break a stalemate which has gone on for more than a generation. As Senator Cranston's and our good friend, Senator Simon, noted in his introductory statement, "we must start some place. And we must lay aside some individual interests in order to provide the maximum compensation for the greatest number of people at this time." These worthy gentlemen are concentrating on the attainable rather than the ultimate in hoping to build confidence in the process. In that regard, it would be appropriate to leave open the possibility that the Veterans Administration may be able to determine over the course of time whether any particular disease or cancer should be linked to exposure to radiation. We urge this approach to be included in any final legislation.

We are also pleased that Chairman and ranking Minority Member have joined willingly in the search for answers. We are aware that they both have received indications of support from the Disabled American Veterans, the Veterans of Foreign Wars, the American Legion, the Paralyzed Veterans of America and Am Vets. We welcome their contribution to the dialogue. We have also been encouraged by the sense of understanding and cooperation that has been generated between NAAV and the Defense Nuclear Agency. This sense has been largely the result of a dialogue between our Chairman, Boley H. Caldwell, III and Lt. Gen. John L. Pickett, Director of the DNA. This has been memorialized in a letter to

Mr. Caldwell from General Pickett which I have attached as an exhibit to my statement.

The National Association of Atomic Veterans in recent years has aired its differences over public policy toward the exposure to atomic ionizing radiation endured by thousands of its citizen-soldiers during the Cold War. But, Mr. Chairman, we have tried to conduct an open and courteous public dialogue while taking care of our responsibilities to our own sick and disabled members who cannot appear here on their own behalf.

I would, however, like to take a brief moment in closing to relate a personal experience which I think is typical of atomic veterans and their families. I beg your indulgence in advance.

A decade ago my father was a vigorous athletic man -- easily used to walking 18 to 36 holes of golf in a weekend. Within six years he shed 40 pounds. Now frail and diseased, he is unable to walk his toddling grandson up and down the block without great effort. This condition is due to his inability to maintain normally produced red blood cells in his blood system, and thus retain or transfer oxygen in his body. My father's [illegible]ptoms have been diagnosed as myleo prolific anemia. He was so ill that he had to have transfusions weekly or biweekly. Recently his spleen was removed. It was 12 times the size of a normal human spleen. We have no history of congenital defects of this sort in our family. Dad has recently undergone a recovery and his doctor may have stabilized his condition with large doses of medicine. We will always be uncertain what caused this condition. Nevertheless, we would wonder about whether the two flights near or through the atomic cloud and the various crew duties, including cleaning exposed aircraft, three months living on the Gilbert and Marshall Islands during the height of testing, and a four- to five-day flight home in the very aircraft that was used in testing exposure to the atomic radiation at the Sandstone tests, may not have left Dad with a legacy of pain in exchange for his patriotism and devotion to duty.

My father volunteered to serve this great country, as did I and the other members of the Atomic Veterans. But, if the United States fails to keep its implied social contract with its veterans such as my Dad and other Atomic Veterans, perhaps my children and yours will say "No, why should we dedicate ourselves to a country which will not take care of its own?" We as a nation will reap what we sow. This country must ensure that an American who goes forth in military service and who returns to that nation as an injured individual, whether the injury is traumatic or latent, receives adequate care. To do less is to denigrate the values upon which this nation was built and to rend the social fabric of this nation for generations to come.

Mr. Chairman, we are extremely pleased to appear here today in support of your initiative and that of Senator Murkowski. For the first time since the invention of the atomic bomb, the representatives of all parties and interests are talking. Whatever proposal is arrived at, in a final reconciliation, the National Association of Atomic Veterans is proud of the Senate and House Veterans' Committees and the other members who have joined with you in this cause.

Defense Nuclear Agency
Washington, D.C. 20305-1000

4 May 1987

Mr. Boley H. Caldwell III
National Association of Atomic Veterans
2310 Apollo Way
Mesquite, Texas 75150

Dear Boley:

As you have learned, I will be retiring from active duty the first of June and joining you in the civilian world. I have not established any firm plans beyond remaining initially in the Washington area while Mary and I consider what options we may have for the next phase of our life.

My purpose in writing this brief letter is to express my appreciation for the way you have offered your hand to me in cooperation. I understand the enormous sense of distrust and injustice that many of the members of NAAV regard DNA. I personally and professionally regret that personalities before we met reacted in such a way to engender such deep emotions. I am not sure that your effort and mine have made life better for any of the veterans, but I have pride in the fact that you and I have tried and been somewhat successful in creating a sense of understanding and cooperation between our two organizations because I believe that, through cooperation, we may be able to help deserving veterans. Frankly, I think you deserve the credit for any success that's been achieved since I am sure that many in NAAV have questioned your motivation and integrity when you became associated with DNA in a non-hostile relationship. I assure you that I will do anything I can to encourage my successor to pursue the same spirit of cooperation that you and I have tried to create. Hopefully, in time, by working together, NAAV and DNA will be able to do the right thing for our atomic veterans.

Boley, I appreciate your understanding, fairness in hearing and considering my responsibilities as well as your own. If there is anything I can do to be of assistance in the future, please let me know.

Warmest regards.

Sincerely,

John

JOHN L. PICKITT
Lieutenant General, USAF
Director

AMVETS
TRINITY POST 745
American Veterans of World War II, Korea and Vietnam

74 Vesper Street
Portland, Maine 04101

From Now
for all time . . .

(207) 773-9594

Statement of Robert L. Campbell
Commander, AMVETS Trinity Post 745
American Veterans of WWII, Korean & Vietnam
before the
Committee on Veterans' Affairs
United States Senate
June 30, 1987

Mr. Chairman and Members of the Committee:

On behalf of the members of AMVETS Trinity Post 745, the only nationwide post of Atomic Veterans with members in more than 33 states stretching from Maine to California to Hawaii to Guam, and Canada, I appreciate this opportunity to support S.1002. While there are other pieces of legislation before you and your colleagues in the House of Representatives, S.1002 best addresses our needs.

I should also like to go on record as appreciating the concern evidenced by Senator Domenici in S.453. While I cannot support this gentleman's proposal, I nonetheless would like to recognize his efforts.

By your leave, I must also single out for special mention Maine's previously best kept secret, Senator George J. Mitchell, for his continuing work on behalf of all of America's Atomic Veterans. Indeed, when comparing notes with Atomic Veterans from other states, I am somewhat the envy when I tell them that the entire Maine Congressional delegation supports our quest for justice. And, in the same breath, I wish to recognize the honorable senator from Illinois, Mr. Simon for his honest and forthright comments about one of his constituents from Steelville, Illinois, Mr. Robert Farmer. If ever justice was due an Atomic Veteran, Mr. Farmer is among the most deserving. I will be commenting on several special cases at the end of this statement.

Regarding S.1002, I should like to make one factual addition to the bill, which is the inclusion of a statement to recognize those American POWs who were in Hiroshima and/or Nagasaki at the time of the bombing of those two cities, plus those POWs who were stationed at Camp No. 6 in Nagoya, Japan, at that time and were subsequently used in clean-up work in Hiroshima prior to the surrender. Honor, I believe, dictates that these men also be recognized in S.1002 for their exposure to radiation.

My second observation is the language concerning a thirty (30) year latency period for leukemia. I believe that said reference should be stricken as it postulates as fact clinical data not yet in evidence. For the record, a member of our Post, Mr. John Grifalconi of Rhode Island, who participated in Operation CROSSROADS has been diagnosed, beyond the arbitrary 30-year mark, as having developed leukemia consistent with radiation exposure (this illness is in addition to other radiation related medical problems). Before accepting such a finding I would have to see those studies from which this latency period is derived, be able to peruse the relevant peer review and then be able to discuss this issue with our own medical consultants.

Mr. Chairman, the subject of latency now directs my comments to an area of concern Atomic Veterans have when it comes to dealing with legislators, scientists, physicians and other professionals regarding our issue. Basically, my chief complaint is that we are not consulted. Now, it could be said, "Well, what the hell does he think he's doing here today?" In response and defense I would reply: "I've been working on this issue nearly a decade and it is difficult to sum up in five minutes ten years of work." Granted that few if any Atomic Veterans are scientists, physicians or legislators or belong to a professional endeavour that has an interest in our situation. Nonetheless, we must be made to feel we are a part of the process. Our lack of education does not mean we are incapable of learning or understanding, or that we have no desire to learn. Too many times we have been made to feel that we are being talked down to or that we have nothing to contribute. Let me give you a prime example of some of the frustration that we feel. Later on, at the end of my statement I shall suggest a remedy. Public Law 98-542 mandated the formation of a panel on Dioxin and Radiation Hazards. Not one Atomic Veteran was named to this panel, not once were we included in any of the panel's deliberations, not once was our input sought, nor was one scientist we nominated included. Had we even been invited to attend any sessions of the panel we would have been unable to attend owing to a lack of funds. For all intents and purposes we were locked out and I think that this situation did a great disservice to Congress and further widened the chasm between us and the Veterans' Administration. I did write letters to Congress pleading for fairness after the panel was named, but my honest supplication for justice went begging.

My personal attempt to remedy the matter in part with the panel's secretary led to my receipt of the minutes of one proceeding and a notice of when the next meeting would be held, and when I explained I could not afford to attend I did not receive any further communication.

I would be less than candid if I did not state that I am aware that there are those who view the cost of compensation for Atomic Veterans as being too expensive. I have heard that it would cost between $23 million and $500 million to do the job. The reason against this compensation I hear most often is that it would be fiscally irresponsible in light of the balanced budget legislation.

But let me say this so my position is plainly understood:

If Congress can appropriate $500 million for the Department of Energy's (DOE) nuclear dump search, then it has the money to compensate Atomic Veterans. Your own colleague Sen. Mitchell can tell you that the DOE's implementation of the Nuclear Waste Policy Act of 1982 is nothing less than an unmitigated disaster that threatens the health and safety of every American;

If the Pentagon can afford $600 toilet seats;

If Congress can appropriate $80 million in aid for El Salvador;

If Congress can appropriate funds for two new aircraft carriers;

If Congress can approve and appropriate $6.5 million for the State Department to build ten (10) $650,000 homes for U. S. diplomats in Australia;

If Congress can approve and appropriate $33 million for an embassy in Belize, a tiny Caribbean country whose gross national product is only $143 million;

If Congress can to do all of the above, then Congress can afford to care for America's Atomic Veterans. The Atomic Veteran has paid his dues and he did not bug out to Canada or Sweden when his country called. In turn, when the Atomic Veteran needs his country it should not bug out on him by telling him he costs too much.

Senator Cranston, I was present in California last year when the 2nd Vice Commander of our Post, Mr. Vic Tolley of Capitola, California, announced his hunger strike over the odious Warner Amendment. You may have also read in the various newspaper accounts that there was an Atomic Veteran in Maine who would follow in his footsteps should anything happen to him. I was that veteran and I remain firmly and irrevocably committed to the repeal of the Warner Amendment. I even went so far as to invite your honorable colleague from New Mexico, Mr. Domenici, to my home in Maine to review my documentation and to discuss matters of mutual concern. Unfortunately, although I even threw in the promise of a Maine lobster, Sen. Domenici was unable to accept my invitation. I mention this only to demonstrate the fact that we Atomic Veterans are attempting to be reasonable in searching out solutions to our problems, but for this approach to work it has to be reciprocal.

Gentlemen, this is the year we celebrate the 200th anniversary of our Constitution, and as we sit here it is common knowledge that veterans in general and Atomic and Agent Orange Veterans in particular, do not enjoy the full safeguards of this great document. To this end I have but one burning question: What crime is it that we have committed so as not to enjoy the Constituional safeguards that even the most hardened criminal can depend upon?

When we voluntarily entered the service of our country we took an oath to uphold, protect and defend the Constitution against all enemies either foreign or domestic. We lived up to that oath and were never once told that in keeping faith with our solemn word that when we needed to avail ourselves of the protection of this document that it would not serve us as we served it.

Our country was born with the concept that the rule of law was paramount to all other considerations. We learned in our education that the military would always be subject to civil authority. This relates to the legislation now before you in that our Constitution is enshrined by the very blood of our nation's sons and daughters. In their service to America they did not give half a loaf nor did they set conditions on how much they would give in defense of the Constitution. Therefore, we should not be before you today discussing compensation or its cost or our Constituional rights. Rather, all these matters should have long ago been resolved in favor of the veteran whose blood mingles forever with the earth and the sea from Concord to Beirut to the Persian Gulf. The Atomic Veteran asks for no more than the rights granted all American citizens.

Now, Mr. Chairman, members of the Committee, I should like once more to approach our problems in a reasonable manner. To do this I must give you a bit of history of AMVETS Trinity Post 745. We formed Trinity Post with our prime goal being that of a medical study of all Atomic Veterans. And in the beginning of our quest I was adamant that an epidemiological study be done...but not by an agency of the Federal government. And, had any such agency attempted this type of study we would have boycotted it from word go. Our reason for boycotting is quite simple: we have no faith in work done by the Center for Disease Control, the Veterans' Administration nor the National Academy of Sciences.

Well, it is one thing to have an idea and quite another to turn it into reality.

You have before you a draft plan of Project HARP prepared by Envirologic Data, Inc., of Portland, Maine, a private industry medical consulting business with expertise in assessing health problems in the workplace. HARP stands for Health and Risk Profile. Thus, Project HARP is not an epidemiological study in any sense of the word.

When I approached the head of Envirologic Data, Dr. Frank Lawrence, I had my heart and mind set on a full scale epidemiological study. This gentlemen reviewed all of the data I submitted, we had several discussions, and when he gave me his final thoughts, in late 1985, that the type of study I wanted was just not feasible I was devastated.

However, as Dr. Lawrence pointed out to me, a health and risk profile would look at the current health of Atomic Veterans and also have a built-in wellness program, I felt kind of foolish for being so near-sighted. As a consequence of these meetings I subsequently contacted the Defense Nuclear Agency to gather their opinion. In addition I presented Dr. Lawrence's draft plan to both Sen. Mitchell and our senior senator, Mr. Cohen. The DNA sent their General Counsel, Mr. Robert Brittigan and their Director of Biomedical Effects, Dr. David Auton, to Maine to meet with Dr. Lawrence and his team. Representatives of both Maine senators were present at this meeting, as well as myself and other key Maine AMVETS.

Following this meeting the Commanding General of the DNA, Lt. Gen. John Pickitt, USAF, sent me a letter stating that the DNA would cooperate with Envirologic Data. Further, Senator Mitchell and Senator Cohen both gave their written endorsement of Project HARP.

We had hoped initially to gain public support to finance this effort, however, to date that help has not been forthcoming owing mainly to the plethora of appeals before the contributing public. But to assure the total credibility of Project HARP, several Maine citizens joined together to form the Radiation Study Group (RSG) that would oversee this effort in terms of financial credibility, obtaining outside consultants to review the work of Envirologic Data, and to arbitrate any disputes that might arise between the veteran and Dr. Lawrence's firm.

The members of the RSG are Mr. Charles Probert, Trust Officer, Casco Northern Bank, Portland, Maine; Mr. James A. Young, II, Esq., Messrs. Bernstein, Shur, Sawyer & Nelson, Portland, Maine; Mrs. Bonnie Titcomb, an educator, housewife, mother and businesswoman of Casco, Maine; Ms. Johnna Majors, Executive Director of the Maine Multiple Sclerosis Society, Portland, Maine; Mr. Harold A. Stoddard, Jr., a Trustee of the AMVETS National Service Foundaion, who resides in Yarmouth, Maine. Mr. Stoddard is the chairman of the RSG and Ms. Majors is the vice-chairman. It was also the sense of the board that once Project HARP is fully operational, to offer observer status to representatives from the DNA, the VA and Scientific Applications, Inc. (SAIC), the civilian contractor used by the DNA to assess dose rates. Both the DNA and SAIC have indicated their acceptance of such a status. We have not yet contacted the VA.

The plan before you is but a draft and is not the final working document. However, in my discussions with Dr. Lawrence and others, Project HARP would also convene a panel of the world's leading scientists, physicians of all specialties and other interested professionals to design a working medical protocol that is based upon the best thinking possible. The conference will be held in Portland, Maine. Further, Project HARP also has the capability of addressing the medical problems of the children of Atomic Veterans.

This effort also has one key ingredient that is absolutely necessary: It will be done bv an outside consultant with no ties to the government and/or nuclear industry. Further, it will be overseen by an organization of civilians who, again, have no ties to the government and/or the nuclear industry.

In sum, gentlemen, I am asking that this committee consider funding Project HARP. If you wish to pursue this matter further, I would be most happy and pleased to arrange a meeting with the principal parties.

Next, gentlemen, I further believe that the time is ripe for first a staff-level meeting of all parties interested in addressing the many problems facing Atomic Veterans. This meeting would include several key Atomic Veterans, all Service Organizations, representatives of the Veterans Administration, the Defense Nuclear Agency, this committee and its counterpart in the House of Representatives and any other government agencies either committee believes should be present for such an undertaking.

Statement of: Robert L. Campbell
Commander, AMVETS Trinity Post 745

Among topics that I envision being discussed include the legislative process, VA rule making, VA claims, legal representation, judicial review of VA decisions, dose estimates, medical and scientific terminology, various VA functions, views of Atomic Veterans on the foregoing, the Constitutional rights of veterans, the VA panel on herbicides and radiation, to name but a few. Undoubtedly many more subjects could arise.

This suggestion relates to my earlier statement regarding our feeling of being consulted and made to feel that we are a part of the process. To this end AMVETS Trinity Post 745 offers itself to be the host organization. It is further recommended that this meeting be a week in duration and not be held in our nation's capitol. Our reasoning for desiring to hold this meeting elsewhere is the fact that Atomic Veterans just cannot afford to travel to Washington, D.C., everytime matters relating to them are under discussion because of the prohibitive costs. This is why, as you look around this room today, that there are not too many Atomic Veterans here. We just do not have the funds. Also, by holding the meeting outside of Washington, D.C., government participants will not be subject to constant interruptions that might otherwise arise.

It would also be my hope that out of such a conference that we could arrive at a method of resolving our differences, a concise legislative program and most importantly, devise a way to resolve our problems without another ten years passing and more Atomic Veterans dying without their needs being rationally addressed.

The key to this conference is that it would be non-adversarial and allow us to come together as individuals and get to know one another. I can think of several outstanding Maine citizens who would be more than willing to chair such a conference to insure its success.

Lastly, to return to the subject of Mr. Robert Farmer. Mr. Chairman, as we are both aware there are several cases of Atomic Veterans whose situations fall between the cracks when it comes to the issue of current law. Yet, we are both aware that these men and their families have neither been compensated nor had their medical needs fully addressed.

Therefore, I would like to suggest that this Committee, in consultation with its colleagues in the House, review the cases of these men and introduce humanitarian legislation to provide for financial and medical compensation. While some might immediately say that this would set a dangerous precedent, I believe it is the just and honorable thing to do and that in this vein it is

Statement of: Robert L. Campbell
Commander, AMVETS Trinity Post 745

the right thing to do. The government of Canada does, in fact, have a humanitarian compensation program for their Atomic Veterans. Also, the Canadian government provides lawyers for their veterans who wish legal representation in dealing with their counterpart to our VA. Further, these lawyers can appeal adverse findings to the Canadian federal courts.

Mr. Chairman, members of the Committe, this concludes my statement and I thank you for your time and move that my remarks be made a part of the record. Thank you.

Robert L. Campbell
Post Commander

STATEMENT BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS, US SENATE

BY

W. CURTIS MUSTEN, SR., NATIONAL COMMANDER

AND

CHARLES A. STENGER, PhD, CONSULTANT ON LEGISLATIVE AFFAIRS
AMERICAN EX-PRISONERS OF WAR

WITH RESPECT TO

S. 1365

A BILL TO ESTABLISH PRESUMPTIONS OF
SERVICE CONNECTION FOR CERTAIN DISEASES
OF FORMER PRISONERS OF WAR

WASHINGTON, D.C. JUNE 30, 1987

Chairman Cranston and Distinguished Members of the Committee

The American Prisoners of War Association has come before this Committee on behalf of former POWs a number of times in the recent past. We again thank you for the opportunity to do so today.

We are deeply grateful for the consideration and compassion the Committee has always shown to POWs and their enduring physical and psychological problems. We are even more grateful for the legislative action that has followed.

All POWs have benefited from the health care services authorized by PL 97-37. This landmark legislation also defined a POW; established basic eligibility for dental care if held captive for more than 6 months; reduced the time in captivity required for eligibility to 30 days for specified presumptive conditions; and added anxiety states to this list.

The Committee, through PL 98-223 subsequently added Depressive Neurosis to the presumptive list. This disorder, along with psychosis, anxiety states and post-traumatic stress disorders, effectively assures that any POWs suffering from long-term psychological consequences should be able to receive needed benefits.

The problem of determining what physical residuals should similarily be made presumptive has been more complex. We were heartened by the unanimous conclusion of the VA POW Advisory Committee (also mandated by PL 97-37) that the starvation, deprivation and brutality universal to the POW experience could adversely damage any body system. This conclusion recognizes that, in addition to the immediate physical consequences made presumptive many years ago, long-term residual damage could be expected. The Advisory Committee was mindful of the accumulation of knowledge world-wide validating this conclusion as well as the supporting opinion of every recognized expert in this area!

The Advisory Committee also concluded that VA adjudication procedures entirely appropriate for veterans as a whole did not result in fair and equitable decisions for POWs. VA policies to liberalize the adjudication of POW claims were found to be fine in concept but simply do not work in practice. Even in those rare instances where they did, excessive delays were involved before favorable adjudication action occurred. Not infrequently, the POW dies before the process is completed.

This distinguished Congressional Committee recognized these factors last year. The enactment of PL 99-576, effective October 1, 1986, was the result. Like PL 97-37, it is also a landmark legislation on behalf of POWs since it is the first to add specific long-term physical consequences to the presumptive list. Residuals of frostbite and traumatic arthritis, the two conditions added to the presumptive list, were common, unavoidable, physical injuries occurring in the POW experience. Their inclusions on the presumptive list will at last enable POWs to obtain service connection for these disabling conditions.

Our concern, Mr. Chairman, is that equally deserving POWs suffering from other long-term physical consequences will continue to be denied needed benefits. We are grateful to see the introduction of S. 1365 which addresses this problem in a comparable manner.

We testified before the House Committee on June 5, 1986 with respect to H.R. 4333, and a year earlier, on June 19, 1985, with respect to H.R. 864. Most recently, we testified on April 9, 1987 on bills approximately similar to S. 1365.

Substantive evidence has been presented in this previous testimony and we will not burden the Committee with a detailed repetition of that information today. However, we would ask that our earlier statements, with respect to discussions of specific disease entities, be considered a part of our testimony today.

We would also call to your attention that, in testimony provided on June 5, 1986, with respect to H.R. 4333, Mr. Grady Horton, Deputy Chief Benefits Director, indicated VA would not oppose the enactment of this bill which would add spastic colon as well as residuals of cold injury and traumatic arthritis to the presumptive list.

We were gratified that VA did not oppose this legislation in 1986 but, in all candor, we find Mr. Horton's statment that any additions to the presumptive list are "largely unnecessary" wholly inconsistent with the facts. The follow-up information provided to the House Committee last year at Congressman Solomon's request fully validated our contentions that the "liberal policies" are simply not resulting in favorable adjudication action. Other VA data taken from three SIRS reports provides further evidence. For example, the first report from October 1, 1981 to June 1, 1985 reveals only 372 original (new) awards were made for all POW claims. This useful report category was dropped from the following two updates:

The second update, to March 1, 1986, showed an actual decrease in the total number of POWs receiving compensation over the preceding 9 months of 1.7%. Overall, this data reveals a total decrease of 5% from October 1, 1981 to March 1, 1986. The third update, to January 1, 1987, no longer contains the total number of POWs receiving compensation so the percent of decrease can no longer be computed. However, a continued downward trend can be expected under current adjudication practices.

It is true that 12,000 POWs have died during the period October 1, 1981 to January 1, 1987, but it is also true that 22,000 have gone through the rating process in that period of time. Nearly 17,000 of them had completed the comprehensive POW protocol examination. SIRS Data reveals that the only diagnostic category reflecting substantial improvement involves psychiatric disorders—all made presumptive by previous legislation. Over 41% of all service-connected disabilities granted or increased since October 1, 1981 are in this area. Very few new awards were made with respect to physical disabilities, but some already service-connected physical conditions may have been increased.

Additional evidence that VA rating practices of POW claims are anything but liberal is reflected in the latest SIRS report. It shows that 43% of all service-connected conditions in POWs are rated at the 0% percent level and 33% at the 10% level. Thus, fewer than 25% of all service-connected disabilities are rated at more than a token level!

The bottom line is less than 40% of the 80,000 POWs are service connected for any conditions whatsoever even though the latest SIRS report acknowledged it found more than 91,000 disabilities that were denied service connection!

Attached is an analysis that reveals this situation exists even at the very highest level of adjudication action. That report by Dr. Stenger concerns appeals of POWs he represented before the Board of Veterans Appeals. It indicates that two major VA policies designed to assure POWs fair and equitable evaluation of their claims and appeals are not properly implemented. In fact, BVA openly states that it is not bound by these VA policies with respect to POW claims even though they have been presented in VA testimony before this Committee.

Mr. Chairman, we stress this disappointing record of actual VA rating practices to set the record straight. We do it to support our contention that only by expanding the presumptive list will POWs long denied service connection for service-related physical disabilities be able to receive fair and equitable treatment.

However, we do want to state in an equally clear manner that we feel VA's efforts on behalf of POWs in the health care area have been extensive and beneficial. When deficiencies are identified, concerted efforts are made to correct them. POWs deeply appreciate VA's continuing efforts to make its health care services effective in practice as well as in policy. We would welcome a similar determination on the benefits side. Policies that are not implemented, or cannot be implemented, in practice do not serve POWs in a fair and equitable manner no matter how "liberal" those policies seem to be.

Mr. Chairman, with these comments as background, we would now like to make some brief remarks on items contained in S. 1365.

First, Spastic Colon as discussed in our testimony of June 5, 1986 is a well-defined condition in the medical literature even though the pathogenesis is not well understood. It is a functional disorder—that is, without manifest pathology, but, nevertheless, is very real and very disabling. The symptoms are well known and "recurrence is the rule". The physiological conditioning of the gastrointestinal tract in POWs is believed to result from a combination of factors including extended dependence on coarse or improper food substances, prolonged diarrhea or dysentery, and continued exposure to extremes of temperature. Stress is very frequently present under these circumstances as well, but it is incorrect to consider this condition then or later as simply a somatic manifestation of an emotional disorder. In fact, the reference cited states "cholinergic agents are more potent in producing the colonic hyperactivity." We strongly support the addition of spastic colon to the presumptive list as a separate and distinct medical condition.

Second, Peripheral Neuropathy. We refer the Committee to our testimony of June 19, 1985 on this matter. However, we would like to call your attention to a very recent study at VAMC Livermore on this condition published in the February 1987 edition of the VA Practitioner. That study of 32 POWs of the Japanese and 20 POWs of the Germans found 28 of the former and 9 of the latter had current neurological findings of persistent peripheral neuropathy. Electrodiagnostic studies also confirmed the presence of chronic neuropathy in all but one case. All of the European POWs had a history of cold injury, and all but two had a history of forced labor and malnutrition. The conclusion was made that cold-induced neuropathy resulted in both axonal and demyelination changes in nerve tissue, with malnutrition and exhausting forced labor also important factors.

Nutritional deficiences and exhausting physical activity characterized the Japanese POWs, but cold injury was also a common problem. The study also was able to rule out other factors present in three POWs as causative to the type of peripheral neuropathy found in each of them. The study also concluded that there was no significant relationship between pattern of peripheral neuropathy and age or duration of imprisonment of former POWs. Put simply, it was found in POWs irrespective of age and how long they were held captive! This study only adds to the overwhelming evidence that peripheral neuropathy is a persistent problem in POWs due to the traumatic insult to their bodies from malnutrition, cold injury, and exhaustive forced labor.

We strongly support the addition of peripheral neuropathy due to trauma to the presumptive list. In doing so, we believe that "trauma" should be understood to include that caused by malnutrition, cold injury, or extreme physical exertion, i.e., forced labor and/or prolonged marches.

Third. Peptic Ulcer Disease. We refer the Committee to our testimony of June 19, 1985 and June 5, 1986 on these conditions. We also call your attention to a carefully controlled clinical study reported in The Medical Journal of Australia for July 8, 1985 that has recently come to our attention. The major finding of that study was that 40 years later the POW sample of 170 showed 25% had ulcers, 2-1/2 times as great a rate as their matched combat controls! The Canadian studies done some years ago had similar findings. Dr. Harold C. Morris at Loma Linda VAMC concluded from his clinical study of POW Protocol Examinations that 25% of Far East POWs showed peptic ulcers or their residuals. Almost all early examinations of POWs for these conditions in military and VA facilities involved brief clinical examinations and less frequently radiology. These methods were inferior to the use of endoscopy, a later emerging technique now in general use.

Dr. Mark L. Chapman, Assistant Clinical Professor of Gastroenterology at Mt. Sinai Hospital School of Medicine, was utilized by BVA for an independent expert opinion on a POW claiming service connection for a peptic ulcer. In addition to his specific detailed opinion that the physical deprivation and psychological stress suffered as a POW might certainly have contributed to the chronic peptic ulcer disease (which he described as "not a curable disease"), he noted "the ulcer often returns". He commented that "very often X-ray studies are highly inaccurate in locating the presence of duodenal ulcers in particular." He acknowledges that even in 1986 the cause of peptic ulcer disease is not completely understood but notes that there is a higher incidence rate in POWs.

We strongly recommend the addition of peptic ulcer disease to the presumptive list. Not only data but also expert opinion, including that of the VA POW Advisory Committee, support the conclusion that its occurrence (and recurrence) in a POW population is not at all unexpected. The common history of malnutrition, stress and physical deprivation suffered by POWs, and the clinical history of prolonged gastrointestinal problems during (and after) confinement, is such that including peptic and duodenal ulcers on the presumptive list is fully warranted.

Lastly, we wish to comment on the provision that manifestations of those three conditions must occur within 10 years after the last date of the veteran's internment.

We understand the intent of this provision and are in agreement that service connection should be provided only when those conditions can be reasonably attributed to the captive experience. For these three conditions, a time factor is appropriate for the vast majority of POWs. Our concern, however, is that "manifestation" be equated with the presence of symptoms of the illnesses rather than the point at which a diagnosis was first made.

Many POWs had learned to live with even life-threatening illnesses during confinement since treatment was rarely available. This conditioned many POWs to follow the same pattern after service. Nevertheless, the symptoms were in evidence, not only to the POWs, but also to family members, buddies, employers and the like. We believe VA's stated principle that the word of the veteran should be accepted as proof of actual occurrence if consistent with the circumstances under which he served is particularly relevant. As Everett Alvarez, Former Deputy Administrator of the Veterans Administration, indicated in a video tape on the POW experience, POWs are highly credible rather than exploitive.

We also call to your attention the recent decision of Superior Court Judge Ira A. Brown, Jr., State of California, rejecting the argument that asbestos damage claims could only be triggered at the point a physician diagnosed an asbestos-related diagnosis and, instead, attributing the origin to the point-of-exposure. The trigger was, he stated, more accurately described as "continuous". This has direct parallel to early damage from the POW experience that has been conclusively shown to be continuous, sometimes with delayed onset in later life.

In conclusion, we wish to again thank the Committee for the continuing concern expressed so eloquently when S. 1365 was introduced on June 16, 1987.

We are grateful that our nation, through your action, still recognizes today the terrible sacrifice of POWs more than 40 years ago. We believe it reflects an inherent recognition that a tragic price is still being paid in damage to physical health and psychological well-being.

We, therefore, believe this is the time for favorable action. Increasing age and deteriorating health has diminished the ability of many POWs to face ongoing health and family responsibilities. The number dying each year continues to grow. Those POWs who would benefit from this legislation have waited a very long time. Their cause is just and expanding the presumptive list is the only viable option. We urge your support.

THANK YOU.

MAJOR INCONSISTENCIES BETWEEN VA POLICIES CONCERNING POW CLAIMS AND BOARD OF VETERANS APPEALS DECISIONS ON THOSE CLAIMS IN 1986

Charles A. Stenger, PhD
American Ex-Prisoners of War

The Veterans Administration has promulgated definitive policies concerning POW claims. These have been formalized in announced policies, internal guidelines and explicit commitments to Congress with respect to certain recommendations made by the POW Advisory Committee. However, the Board of Veterans Appeals specifically states in its written decisions on individual POW claims that it neither accepts nor is bound by those policies.

Specific examples of these inconsistencies will be provided in the following paragraphs. They are based on VA and BVA sources that will be cited. They refer only to 1986 BVA decisions on individual POW appeals.

The Board of Veterans Appeals in its 1983 publication of appeals, regulations and rules of practic states "the Board is bound by the regulations of the VA, instructions of the Administrator, and precedent opinions of the General Counsel".

On January 3, 1986, DVB reissued in more specific language instructions to its adjudicators for processing POW claims. Contained in M21-1, Change 415, paragraph 50.80c, entitled "Rating Claims Based on POW Status", the following points were made:

> "...it is necessary the Government prove the disability was not incurred in service before service connection can be denied. Accept the veteran's statement....as proof of actual occurrences of the condition in question if residual disability is noted which can be attributed to the service incident."

> "In many POW claims there is a paucity or complete absence of records of treatment or diagnosis of disease or injuries during the confinement period. If disabilities are first diagnosed after service, give special attention to the veteran's POW experiences in determining the relationship of such disabilities to service. Consider both the duration and circumstances of the veteran's imprisonment as well as pertinent medical principles in these determinations."

The BVA decision of October 22, 1986 in the appeal of Billy D. Kaats (C 9 794 422) is typical of BVA treatment of this issue.

> "Veteran Administration Manual M21-1 is not regulatory. It is, essentially, an interpretation of laws and regulations by the VA Department of Veterans Benefits."

In other POW appeals where this Manual reference is cited, the BVA decision simply dismisses this as "not binding". BVA simply does not accept the word of the veteran when service records are lacking, even when consistent with known circumstances of captivity, medical principles and even very precise buddy statements.

It is called to your attention that similar language concerning this same issue is cited in numerous places in the 1980 VA "Study of Former Prisoners of War" published under the direction of the Administrator. It has been cited by VA to Congress and other bodies as evidence of the VA's policies to assure POWs with inadequate or no medical records fair and equitable treatment. It seems entirely inappropriate for BVA to reject this as not binding when it clearly reflects the intent of the Veterans Administration—and of many Administrators—to follow this policy. It seems both wrong and indefensible for BVA to reject this policy as not binding simply because it may not technically conform to other "instructions" of the Administrator.

A second example of BVA's failure to follow the intent of the Administrator involves a recommendation made by the POW Advisory Committee in its 1983 report to Congress. Recommendation #8 states:

> "that claims adjudicated prior to the use of the examination protocol should be reopened on the request of the claimant with the examination considered new and material evidence."

The Administrator, in his cover letter of Sept. 2,1983 forwarding the POW Advisory Committee report to Congress stated:

> "We concur. We are in the process of identifying claimants who have not received favorable ratings since PL 97-37 became effective. These claimants will be contacted by the regional offices regarding reexamination. In addition, any individual POW who currently reopens a claim will be examined under the new protocol."

It is called to your attention that the POW Advisory Committee was fully aware that any veteran could always reopen any previously denied claim or appeal on the basis of " new and material evidence". Their recommendation was based on recognition that a comprehensive medical examination would, for the first time, provide an indepth and integrated medical assessment of the POW in perspective of the captive experiences he suffered. This would permit a "fresh look and a de novo evaluation.

Despite this clear intent to provide a de novo review of any denied claim or appeal for POWs completing the special POW protocol examination developed by DMS, BVA decisions on individual POW appeals specifically state the following:

> "the fact that a prisoner of war protocol examination has been conducted does not mean that a case may be decided on a de novo basis in the strict sense. In other words, the fact that such an examination may be conducted does not mean that prior unappealed decisions may be ignored'" (Kaats decision, see earlier reference)

This position by BVA seems completely inconsistent with the intent of the POW Advisory Committee and the acceptance of that recommendation by the Administrator. The BVA interpretation completly negates that intent even though it is well known that few POWs prior to the protocol examination ever had the thorough medical evaluation necessary to a truly fair and equitable original assessment of their medical problems in the light of their POW deprivations.

In summary, these cited inconsistencies between VA policies and BVA practices do have an unfortunate and destructive impact on POWs who believed VA would now assure them a fair and equitable evaluation. The sole reason for the BVA to exist is that it is to correct any deficiencies that might have occurred at a lower level, doing so in in a manner consistent with the intent of VA—and the Administrator—regardless of the technical manner in which that intent was communicated. It is clearly not fulfilling that role in the case of POWs.

Attachment: M21-1, Change 415, paragraph 50.80c

(Recent Instruction to VA Adjudicators)
(Regarding POW Claims)

50.80 RATING CLAIMS BASED ON PRISONER OF WAR STATUS

If a former POW files a claim alleging service connection for a disability incurred just prior to internment or during confinement, it is necessary the Government prove the disability was not incurred in service before service connection can be denied. Accept the veteran's statement as to wounds or injuries incurred just prior to internment or while confined as proof of actual occurrences of the condition in question if residual disability is noted which can be attributed to the service incident. Although 38 CFR 3.304(e) is intended to be given liberal application, there must be a reasonable basis for establishing service connection. Intercurrent diseases or injuries would generally obviate a relationship between disabilities claimed and the POW experience, as provided by 38 CFR 3.307(d).

EXAMPLE: The veteran has degenerative arthritis of the left knee and alleges trauma to the left knee shortly before capture. Service medical records are negative. If the first appearance of the arthritis was at an age earlier than would be anticipated, a reasonable basis for the granting of service connection exists.

a. **Absence of Records.** In many POW claims there is a paucity or complete absence of records of treatment or diagnosis of diseases or injuries during the confinement period. If disabilities are first diagnosed after service, give special attention to the veteran's POW experiences in determining the relationship of such disabilities to service. Consider both the duration and circumstances of the veteran's imprisonment as well as pertinent medical principles in these determinations. A special medical and social history of the POW experience shall be obtained at the time of examination, and made a permanent part of the veteran's records. Review the protocol history in order to gain insight and understanding of the factors affecting the veteran's internment as a POW. See paragraph 22.06a(2) for procedures to obtain POW debriefing records and 22.06b as to the requirement for a social survey.

b. **Presumption of Service Connection.** The conditions set forth in 38 CFR 3.309(c) are subject to presumptive service connection for former POW's confined 30 days or more. If any of these conditions becomes manifest to a degree of 10 percent or more at any time after service, service connection is in order. It follows that any conditions which are recognized by accepted medical principles to be secondary to any of the conditions listed in 38 CFR 3.309(c) are likewise subject to presumptive service connection.

c. **No Specific Disability Claimed.** Symptoms presented by the veteran may be the result of the POW experience, or of the diseases subject to presumptive service connection, even though the veteran has not alleged a specific disability. For example, the chronic residuals of nutritional deficiency can present themselves in a variety of complaints. Be alert to this possibility and ensure that examinations are complete and comprehensive. If it is unclear whether a condition is a residual of the POW experience, submit the claim to Central Office (212A) for an advisory opinion.

Senator John Kerry
Statement on Agent Orange
Committee on Veterans Affairs
June 30, 1987

Mr. Chairman, thank you very much for giving me this opportunity to appear before the Veterans Affairs Committee. I would like to begin by stating my gratitude to Senator Cranston for his continuing leadership on issues of concern to veterans.

Vietnam veterans have no better friend in the Congress than Alan Cranston. He has been a leader in the Congress for two decades on veterans issues, and he is continuing those efforts this year as Chairman of this committee.

Several months ago, I asked Senator Cranston, as the Chairman of the Senate Veterans Affairs Committee, to join with me in an effort to achieve closure and consensus on the issue of Agent Orange, and bring an end to the continuing debate. I asked him to join with me in requesting that the National Academy of Sciences conduct a review of all of the studies and all of the evidence on Agent Orange, and issue a report within one year, to state with authority their conclusions as to the health effects of Agent Orange.

According to figures compiled by Vietnam Veterans of America, there are now over 1,000 available studies pertaining to Agent Orange. This issue has literally been studied to death.

What is needed is one authoritative report which would examine the results of all of these studies, and reach a conclusion with regard to the health effects of Agent Orange on Vietnam veterans. This will enable the Congress to have a solid basis and foundation upon which to make policy.

I am very grateful to Senator Cranston for responding positively to this initiative, and for agreeing to join with me in co-sponsoring legislation to call for a comprehensive and authoritative report by the National Academy of Sciences on Agent Orange.

This is a major step forward, towards putting an end to the debate and the divisions over Agent Orange, and completing the homecoming process for Vietnam veterans. For far too many of our nation's veterans have yet to come home.

The great Irish poet, William Butler Yeats, wrote: "Too long a sacrifice can make a stone of the heart." Many

Vietnam veterans know the truth of those words all too well. They know the bitterness which comes of feeling that one's sacrifices have not been recognized or rewarded. All of us know that there was a reason for that feeling of bitterness. But we also know that during the past 5 years, since the establishment of the Vietnam Veterans Memorial in Washington, and other milestones for Vietnam veterans, that the healing process has brought many of us home again.

But there are some for whom a feeling of bitterness remains. There are those for whom the sacrifices continue, and are not yet recognized or rewarded. I am referring to the victims of Agent Orange.

Elmo Zumwalt III, the son of Admiral Elmo Zumwalt, has written and spoken eloquently about the subject of Agent Orange. Let me quote briefly from his words, expressed in the book which he wrote about Agent Orange, entitled "My Father, My Son".

Elmo Zumwalt III, who served as I did as a swift-boat officer in Vietnam, wrote: "I had seen Agent Orange defoliation nearly everywhere I had patrolled, but from the air the extent of it was dramatic -- trees were stripped of leaves, thick jungle growth was reduced to twigs, the ground was barren of grass. In the 11 months I was in Vietnam, I had often washed in the waters into which Agent

Orange had drained, and had eaten local produce which I suspect had been doused with the chemical. I remember developing a skin rash while in the Sea Float area. I have since learned that one of the effects of Agent Orange exposure is a skin rash. But at the time, I was thankful for the defoliation. It meant the enemy could not attack Sea Float without great cost to itself."

And these are the words of Elmo Zumwalt III today, knowing that he is the victim of Hodgkin's disease, a severe form of cancer, and that his son Russell is the victim of a learning disability, both probably caused by Agent Orange. He writes: "I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that Agent Orange is the cause of all the medical problems -- nervous disorders, cancer and skin problems -- reported by Vietnam veterans, or of their children's serious birth defects. But I am convinced that it is."

I agree with Elmo Zumwalt. I am not here to criticize the use of Agent Orange in Vietnam, or to second-guess that decision. But I am here to suggest that the time has come to bring to a close the debate over Agent Orange, and to begin to provide compensation to the victims of Agent Orange. This nation needs to take that further step in the healing process, in the process of closing the lingering wounds from the Vietnam war. And the Congress needs to be a part of that process.

I am proud to say that the state of Massachusetts has been a leader in both the medical research on Agent Orange, and the organization of veterans with problems which could be related to their Agent Orange exposure in Vietnam. Massachusetts veterans such as State Senator Francis Dores, former State Representative Thomas Valleley, State Commissioner of Veterans Services John Halachis, Deputy Commissioner of Veterans Services John Lopes, who sadly passed away last week, Joseph Bangert (the Director of the Massachusetts Agent Orange Project), Dr. John Constable, Dr. Arnold Schecter, Michael King, Christopher Gregory, Richard Clapp, and Robert Barch provided critical leadership in the effort to undertake such a massive project. The Commonwealth's Agent Orange Program has conducted research and come up with some very important findings, some of the most important in all of the research on Agent Orange.

In January of 1985, the Massachusetts Agent Orange Program published a report, "Mortality Among Vietnam Veterans in Massachusetts, 1972-1983". The report found that deaths due to stroke and connective tissue cancer were significantly elevated among Vietnam veterans compared to both non-Vietnam veterans and non-veteran males. The increase in connective or soft-tissue cancer was the most alarming, because this extremely rare disease is closely linked to dioxin exposure in scientific literature.

And in June of 1986, the Massachusetts Agent Orange Commission released the results of a survey it conducted among Vietnam veterans in the state who believed they had been exposed to Agent Orange and to the highly toxic element of dioxin. These veterans reported very high incidences of birth defects, nervous disorders, and other ailments. Other states, including New Jersey, Wisconsin, Iowa, Texas, and New York, have also done surveys or studies on Agent Orange. And the results are similar.

Massachusetts recently completed one of the only state-funded dioxin studies to determine retrospectively if there is a body burden of the contaminants of Agent Orange dioxins in Vietnam veterans. Preliminary results as of February 1987 showed that some Vietnam veterans in Massachusetts had up to ten times the normal level of dioxin in their bodies, some 20 years after they left Vietnam.

The most recent evidence of the link between dioxins and soft-tissue sarcoma and lymphatic cancer is contained in the Kansas study conducted by Dr. Sheila Hoar Zahm and her colleagues, and published in the Journal of the American Medical Association in September 1986. This study clearly shows that farmers and workers exposed to herbicides similar to Agent Orange face a much higher risk of lymphatic cancer than those who were not exposed.

Given this evidence, I have been deeply dismayed by the continuing efforts of the administration to deny, delay, and even impede studies on Agent Orange. This Administration appears to be placing politics ahead of the health of this nation's veterans.

A study released in September by the Harvard School of Public Health and the Mount Sinai School of Medicine, and commissioned by the House Energy and Commerce Committee, stated that the Office of Management and Budget "has delayed, impeded, and thwarted governmental research efforts designed to answer public demands for information on serious public health questions."

The study concluded that "Conditions imposed by OMB during its paperwork review of a proposed NIOSH study of New Jersey and Missouri dioxin workers have substantially delayed the initiation of the study, wil substantially increase contracting costs by more than $270,000, and may even totally block the completion of this important study." At a time when veterans are still waiting to receive any compensation for injuries and diseases caused by exposure to Agent Orange in Vietnam, this foot-dragging by the OMB is intolerable.

Meanwhile, the VA regulations on Agent Orange continue to be totally inadequate to the needs of veterans. The VA regulations recognize only chloracne, a severe form of acne, as being related to Agent Orange exposure. They continue to deny the existence of all other diseases, including soft-tissue cancers, as being related to Agent Orange. They continue to state the totally unreasonable requirement that the disease must have occurred within one year of service in Vietnam, in contradiction of all the facts which show that such diseases may not show up for 15 years, or 20 years, or longer.

The result of those VA regulations is that not one Vietnam veteran has received compensation for diseases which were caused by Agent Orange. Not one. That is no longer acceptable in 1987.

Today, let us as a society make a decision that the time is now to heal the final wounds of Vietnam, to recognize the final sacrifices, and to make the final amends. And let us begin that process by finally, belatedly recognizing the horrors that we have visited upon ourselves and our children through Agent Orange.

The Vietnam war has held a terrible power, an awful sway over our society. It has had the power to rend us apart, and to bring out the best and the worst in us.

William Butler Yeats wrote, in his poem "The Second Coming":

"Things fall apart; the center cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity."

Those words could be a description of both the Vietnam conflict itself, and its effect on our society. I hope that the time has come when we can bind the center together, heal the wounds, and leave the scars and the pain of Vietnam behind us. Recognizing the pain and the wounds of Agent Orange, and resolving those lingering divisions between us, is an important part of that process. Together, let us complete the healing process, and put the war behind us.

Thank you.

American Ex-Prisoners of War

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STATEMENT TO THE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

JUNE 30, 1987

BY

Charles S. Prigmore, Ph.D.
Legislative Officer
American Ex-Prisoners of War

WE EXIST TO HELP THOSE WHO CANNOT HELP THEMSELVES.

Mr. Chairman and Members of the Committee on Veteran's Affairs, United States Senate, we in the American Ex-Prisoners of War are gratified and delighted that so many members have cosponsored S. 1365, amending Title 38, United States Code, to establish three new presumptions of service connection for certain diseases of former prisoners of war. We are particularly appreciative of the sympathetic and understanding comments made by Senators Graham, Cranston and Murkowski in the Congressional Record of June 16, 1987 in introducing the bill. Their recognition of the hardships suffered by our former prisoners of war is indeed very welcome.

As we did last year, we have worked very closely with the staffs of the Committees on Veterans' Affairs in the two houses of the Congress, as well as with the Veterans Administration, in urging the consideration of these presumptions. All three of them - peripheral neuropathy, irritable bowel syndrome, and peptic and duodenal ulcers - are supported by research. These studies are well summarized in the Chairman's statement in the Congressional Record of June 16, 1987 and need not be repeated in this statement.

We do have two suggestions about the bill which we believe would improve its value and effectiveness in meeting the needs of our roughly 70,000-80,000 surviving former prisoners of war.

Firstly,we respectfully call attention to problems with the provision that manifestations of the three presumptions must occur within ten years after the last date of the veteran's internment and the corollary provision that symptoms have recurred on a continuous or regularly intermittent basis thereafter. One of the chief problems in these provisions is that most former prisoners of war did not acknowledge or seek medical help for such conditions for many years, sometimes fifteen or twenty, after release from captivity. They were primarily interested in re-entering the work force and raising families. Unless the problem became incapacitating vocationally, they were likely to use self-medication or care from civilian physicians. Few of them retained records of medical care even if received. As a general rule, former prisoners of war who suffered the deprivation, brutality, malnutrition, stress and exhaustion so well documented in your excellent statements of June 16, 1987, considered the residuals of these diseases covered by the presumptions to be so much more tolerable than life in prison camp that they were willing to try to endure them with a minimum of complaint and medical care. If one has been run over by a car, he does not worry as much about a subsequent sprained ankle, to use an analogy.

Those former prisoners of war whose diseases were partially or wholly incapacitating have frequently ended up in Veterans Administration medical centers and received both care and disability compensation. But records have usually been necessary, and, of course, the willingness of the ex-POW to go to the VA Medical Center. Sometimes these two requirements have not occurred for much longer than ten years. For example, although I had proof of spastic colon since shortly after World War II, I did not really seriously approach the VA until the early 1980s. Since the proof was there, I did receive 10% disability for spastic colon (or irritable bowel syndrome). But what if I had not kept all my records, as with the vast majority of ex-POWs? I think it likely that I would have been denied. The whole idea of a presumption is to compensate for the lack of medical records. The ten-year stipulation would therefore seem to largely negate the purpose of a presumption.

Moreover, the Veterans Administration does not always give the same value to the medical record from a civilian physician that it gives to the report of its own medical staff. The ex-POW receiving only civilian care for these three diseases for twenty or thirty years might be less likely to have his claim honored than if he had been a VA patient. The other purpose of a presumption is to compensate for this kind of situation.

For the above reasons, we respectfully request that serious consideration be given to the removal of these requirements or at least to their modification in the light of the problems noted above.

Secondly, we strongly urge the Committee to add to the bill the reduction of the time requirement for dental care of ex-POWs from six months to three months. There is little doubt in the mind of any former prisoner of war that broken or cracked teeth, the knocking out of teeth by rifle butts, incipient caries, aggravation of existing caries and a host of other dental problems often occurred in less than six months of imprisonment. The Congressional Budget Office has considered the cost insignificant. The Veterans Administration concurred in its 1986 testimony on H.R. 4333, although its 1987 testimony on H.R. 1544 increased the estimate of cost - in spite of the death of a number of ex-POWs - perhaps due to a change in the directives from the Office of Management and Budget. We feel that dental care, while relatively inexpensive, will be particularly helpful to some of the men captured in the Battle of the Bulge. Most of them will no doubt prefer their own dentists, but some are needy enough to be able to benefit from VA dental care. If the Committee is sincere about its desire to help these men who sacrificed so much to their nation, and endured such hardships and torture, I believe thought should be given to the addition of dental care for former prisoners of war held for 90 days or more.

STATEMENT BEFORE THE
COMMITTEE ON VETERAN'S AFFAIRS
UNITED STATES SENATE
BY
ALBERT J. BLAND, DIRECTOR
AND
PAUL REUTER, ADJUTANT
AMERICAN DEFENDERS OF BATAAN AND CORREGIDOR, INC.
WITH RESPECT TO S. 1365
A BILL TO IMPROVE VETERAN'S BENEFITS FOR
FORMER PRISONERS OF WAR

WASHINGTON, D. C.

JUNE 30, 1987

Mr. Chairman and fellow members of the Senate Committee on Veteran's Affairs, the American Defenders of Bataan and Corregidor appreciate the opportunity to testify on behalf of S. 1365, a bill which would amend Title 38, United States Code, to improve veteran's benefits for former prisoners of war.

This past April 9th was the 45th anniversary of the fall of Bataan and the beginning of 42 months of Hell, Starvation, Beatings, Hell Ships and the infamous Death March. The Japanese did not defeat this group of gallant men. It was disease, lack of fire power, air support and above all food and medicine.

The Former Prisoner of War Benefits Act of 1981 (PL -97-37) was a godsend to the former POWS and the former POWS will remain eternally grateful to this Committee for the strong and compassionate concern it has shown in favor of the POWS. That legislation opened up the doors of the VA health care system to many ill and desperate former POWS.

However, with all these laws there is more legislation needed to expand the presumptives list to include the additional presumptives listed in S.1365. We may have to return to you if studies recommendation by the EX-POW Advisory Board, and the National Academy of Sciences - National Research Council analysis of these latest studies prove it necessary. This latest study should be released this year.

Perepheral Neuropathy

This condition was know to be prevalent during captivity as a result of nutritional deficiencies and damage to tissue and nerve - endings due to cold injury. This is common condition to many of the ETO former POWS that were on the marches between December 1944 and April 1945.

This condition is also one that VA cites in VA Pamphlet 27-82-1 Rev. June 1984, page 2, item three quote:

"Diseases of nutritional deficiency such as beriberi, pellagro, avitaminonis, optic atrophy, and perepheral neuropathy associated with malnutrition."

Spastic Colon

The gastro-intestinal tract was one of the worst affected systems. Almost without exception all POWS suffered from diarrhea, dysentery, anoebic dysentery and even cholera. At times we would suffer from several types of diarrhea concurrently. Camp hygiene was of the upmost importance and in places like the Far East and on the marches in Germany were hard to police. The latrines were of pit type or a trench and as a rule, some distance from our sleeping area. As the result of the frequency of bowel movements and the great urgency associated with it, the area around the surrounding ground was fouled. A significant number, however, have continued to experience an embarrassing and disabling degree of these symptoms.

Establishing Spastic Colon disorders as a presumptive condition is fully warranted by the total picture, supported by treating physicians, in and out of VA and urgently needed by former POWS.

Peptic or Duodenal Ulcers

Mr. Chairman, peptic or duodenal ulcers studies that were done by the Australian doctors in the July 8, 1985 Medical Journal of Australia, Morbidity in Ex-Prisoners of War of June 1985, indicate Duodenal Ulcers and Strongyloides were more prevalent in the Ex-POWS group than in the Non-POW group.

In the report to Australian Medical Journal it was found the only statistically significant difference in gastrointestinal illness since the War was in the occurrences of Duodenal Ulcer which is 2.5 times higher among POWS than Non-POW veterans.

It also must be noted that in the study conducted under PL 744, 83 D Congress page 42:

V Conclusions and Recommendations

A Referring to NRC-VA Study

(1) "the Chronic conditions ------

"gastrointestinal disorders"

The same report stated that those who reported having a peptic ulcer during the War, 83% had a peptic ulcer diagnosed or had undergone surgery for peptic ulcer since the war. Twenty-five percent of Former POWS had one or more admissions to hospital for gastric disease (almost all because of duodenal ulcer compared with 14% of non-POWS).

Congressional action to make this a presumptive condition is a fair, justifiable and reasonable solution, and we so endorse it as contained in S. 1365.

Dental

We would like to refer to the VA testimony on H.R.4333 in which they stated,

"Granting eligibility for full dental benefits to this group of former POWS would bring the scope of dental benefits more in alignment with existing medical benefits which are currently offered to the group of Veterns."

Congressional action to make this change from 180 to 90 days is a fair, justifiable and reasonable solution, and we recommend it.

Mr. Chairman, in closing, this proposed legislation which you introduced, will do much to help former POWS with respect to those disabling conditions known to both treating and research professional of their captive experience.

Thank you.

I

MORBIDITY
of
Prisoners Of War

The P.O.W. Association of Australia

MORBIDITY IN EX-PRISONERS OF WAR

by

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JUNE 1985

MORBIDITY IN EX - PRISONERS OF WAR.

In June 1983 figures obtained from the Department of Veterans' Affairs revealed that there were 12,500 ex - POW surviving in Australia from all areas of conflict. Of these 8,300 were prisoners of the Japanese POW (J), 3,000 were prisoners in Europe, POW (E) and 32 were prisoners in Korea POW (K).

In September 1982 the N.S.W. Ex - Prisoners of War Association established a panel to help survivors with claims for war-caused disabilities in the belief that many Veterans were reluctant to make any claim, many were incapable of presenting adequately their disabilities in claim form and many had expressed complete dissatisfaction with the lack of understanding and tolerance of their diverse problems by Departmental Medical Officers both in the past and more presently. It was apparent very early to the panel, that there was also a great lack of knowledge of the problems facing these Veterans, especially at the general practioner level.

Many of the doctors were not even born in 1939 and, as a consequence, are unable to understand fully the problems facing these Veterans.

It is important to realise that POW had huge psychological problems to overcome:

(1) Following the trauma of battle was the shock of capture.

(11) They had to adapt to a completely different way of life, deprived of freedom for an indefinite period, cut off from all sources of news, little if any mail from home.

(111) They lived under appalling conditions, often working very long hours, doing very arduous and frequently hazardous work while suffering from starvation, malnutrition as well as chronic and recurrent disease.

(iv) There was the ever present language and culture problem and the prisoners were at the mercy of cruel, vindictive and unpredictable guards.

(v) There was no leave and they were in contact with the enemy 24 hours a day, seven days a week, for a period of years.

(vi) They were again subject to the pressure of battle when bombed and strafed by our own people.

(vii) After being repatriated home they had the tremendous shock of adapting to a way of life that had changed greatly during the period of their captivity. These stresses were common to all POW but it must be realised that every man had a different war in the way he reacted to the enormous stresses to which he was subject. The stresses suffered by prisoners differed only in degree.

With all this in mind, the panel surveyed 1,937 ex-POW by means of:

(i) An Australian wide questionaire as to the present health of Ex - POW. Stringent rules were laid down and it was necessary for claims to be documented, many of the claims being filled in by their own doctors or being accompanied by medical certificates.

(ii) A great deal of use was made of Departmental records.

(iii) In addition, over 600 men were interviewed personally by the panel.

The full details of the study were sent to the relevant authorities in Australia, United Kingdom, New Zealand and U.S.A. Copies of this study can be obtained from the Department of Veteran Affairs Canberra.

POW (E) were compared to POW (J) being two groups of POW.

The panel is still active and have now interviewed over 1,000 ex-POW. We are of the opinion that, in spite of the greater number seen, the percentages of the morbid figures do not differ significantly from the figures already submitted to the Department. We also believe that these figures err on the conservative side.

ALIMENTARY SYSTEM

The gastro- intestinal tract was one of the worst affected systems. Almost without exception all prisoners suffered from diarrhoea be it from a non-specific infection, bacillary dysentery, amoebic dysentery, pellagrous diarrhoea and even cholera At times they would suffer from several types of diarrhoea concurrently. Camp hygiene was of the utmost importance and in places in Burma and Thailand, almost impossible to police The latrines were of the pit type or a trench and as a rule, some distance from the huts. As the result of the frequency of defaecation and the great urgency associated with it, the great fatigue of the men who had to work very long hours on the Railway and their profound weakness due to malnutrition and chronic illness, the surrounding ground was fouled. In some camps, during the wet season, corduroy paths had to be built through the camp lines to the hospital and latrines.

Our survey of survivors revealed that as a result of the privations suffered, gastric ulceration is to be found in 7.5% of both POW (E) and (J) and duodenal ulceration is present in 17% of survivors from both theatres of war. Some 25% of both groups suffer from chronic indigestion.

After 40 odd years, chronic diarrhoea is still present in 14.5% POW (E) and 23% POW (J), many with at least some degree of incontinence, this being most marked in POW (J)

Strongyloides infestation affected at least 13.5% of POW (J) with a much higher incidence in those who worked on the Burma /Thailand Railway. It must be stressed that all POW (J) survivors should be thoroughly checked for this condition both clinically and in the laboratory.

This should be mandatory by all doctors dealing with POW (J). The creeping eruption of strongyloides has been seen by the panel but had not been correctly diagnosed by their local doctor. Some 9% of both groups suffer from diverticulosis.

Diseases of the liver are common in both groups with a diagnosis of cirrhosis being made in 0.86% of POW (J) only, hepatomegaly being reported in 0.43% and non-specific liver disease in 2.21% POW (J) only.

Prolonged malnutrition and starvation would have caused a lot of cellular liver damage. Studies at the Repatriation General Hospital Concord, have revealed that a significant number of POW (J) have hepatitis B antibodies which suggest that viral hepatitis was common in POW (J) camps. Perhaps arboviral infections contributed. POW of both groups have reported increased incidence of cholecystitis and pancreatitis.

Carcinoma of the alimentary tract is reported as follows: mouth in 0.12% POW (J) only, pharynx in 0.05% POW (J), oesophagus in 0.06% POW (J) only, stomach in 0.32% POW (E) and 0.12% POW (J) and in the pancreas 0.12% POW(J) only. There is a relative increase in the incidence of carcinoma of the bowel to 1.04% in POW (J) as compared to 0.32% POW (E). This is not surprising in view of persistent diarrhoea in the former both before and after imprisonment

CARDIO - VASCULAR SYSTEM

After years of deprivation, returning prisoners were given extra rations of butter and meat. Well meaning friends and relatives fed them large meals containing high fat levels and it is not unreasonable to suppose that the sudden increase of lipids and proteins circulating in the blood stream, resulted in the development of atherosclerosis in blood vessels possibly damaged by malnutrition and avitaminosis and thus causing premature cardio-vascular disease.

It is accepted that a sudden increase of fat and protein in the diet is an important factor in the development of atheromatous deposits.

If one accepts stress as one of the causes of coronary artery and cerebro - vascular disease there is ample evidence of it in POW in both theatres. Reference to the opening paragraphs will demonstrate this. See also the addendum.

Some 28% of all POW now have hypertension needing treatment.

Some 13.22% POW (E) and 26.18% POW (J) are suffering from ischaemic heart disease or have suffered an infarct.

Some 2.90% POW (E) and 8.23% POW (J) have chronic myocarditis.

Some 4.19% POW (E) and 7% POW (J) have suffered a cerebro-vascular accident.

Some 0.32% POW (E) and 1.04% POW (J) have been diagnosed as suffering from cerebral atrophy.

Some 5% of both groups suffer from peripheral vascular disease.

DERMATALOGICAL SYSTEM

The skin seems to have recovered fairly well. The main lesions causing trouble are those caused by solar exposure.

In the desert, men were exposed to the sun for long periods of time whilst in Asia, men had to work for very long periods almost completely exposed to the sun and wearing very scanty clothing. There was little shade in most prison camps and certainly none when working on the Burma/ Thailand Railway, or on aerodrome construction.

As a result, 17.41% POW (E) and 31.40% POW (J) have either hyperkeratoses or basal cell carcinoma or both. Some 0.96% POW (E) and 2.15% have been treated for squamous cell carcinoma. 0.49% POW (J) have been treated for melanoma.

It is necessary to mention here that Department for Veterans' Affairs is very reluctant to accept hyperkeratoses or basal cell carcinoma as being war caused, especially if prior to enlistment the Veteran was a farmer or stated that his hobbies were surfing or swimming, maintaining that it took at least 15 years for these lesions to develop. However, many Veterans have had such lesions treated just a few years after discharge. It is reasonable to suppose that the skin in men suffering from severe malnutrition and avitaminosis would be more vulnerable than normal healthy skin when exposed to sunlight for long periods

Strongyloides is a cause of urticaria as well as the creeping eruption. The latter not being recognised.

Chronic dermatitis afflicts 15.16% of POW (E) and 30.60% of POW (J).

Tinea is troublesome in 13.54% POW (E) and 30.60% of POW (J).

GENITO - URINARY SYSTEM

The greatest cause of complaint among surviving POW is impotence. Some of this is undoubtedly psychological but it is of concern to 16.77% of POW (E) and 22.12% of POW (J). Sterility occurred in 3.22% of POW (E) and 5.10% in POW (J).

Renal calculi occurred in 0.96% POW (E) and in 2.21% POW (J).

Carcinoma of the kidney was present in 0.32% POW (E) and 0.12% POW (J). Carcinoma of the bladder was found in 0.32% POW (E) and 0.36% in POW (J). Carcinoma of the prostate was present in 0.32% of POW (E) and 0 67% in POW (J).

NERVOUS SYSTEM

Psychologically all POW took an enormous battering as outlined earlier and it is here that the main difference between the two groups is most evident. It is also here that the lack of vitamins is most apparent.

The text books describe the various morbid conditions as entities. We maintain that it is impossible to predict, without any doubt, just what the end result will be when an individual is concurrently suffering from recurrent malaria, chronic diarrhoea, beriberi, pellagra, aribinoflavinosis, malnutrition and starvation and, at the same time, is subject to the stresses outlined in the opening paragraphs.

We believe that one result is premature senility. A condition resembling. Alzheimer's disease or Wernike's disease was evident in many of the Veterans interviewed. The condition was not due to alcohol. We believe it to be due to a long term lack of essential vitamins combined with the lack of adequate protein over a number of years. The classical signs of pellagra are dermatitis, diarrhoea and dementia - pellagra was common in POW (J).

Depression sometimes began during imprisonment and was not recovered from after release. It often appeared in later middle age and tended to be associated with alcoholism. Depression was a feature among those interviewed and our findings are similar to those found in a study at Repatriation General Hospital, Concord. The stress of being a POW was enormous thus some 37.14% POW (E) and 46.77% of POW (J) suffer from anxiety state whilst a diagnosis of stress is applied to 30.96% POW (E) and 27.78% POW (J).

Nervous dyspepsia is present in 26.12% POW (E) and in 24.64% POW (J

Some 13.87% POW (E) and 19.05% POW (J) find it difficult to cope with every day problems.

Some 17.74% POW (E) and 28.02% POW (J) are mentally confused.

Some 35.80% of POW (E) and 27.85% POW (J) are unable to concentrate for any length of time. Many suffer from nightmares and are unable to sleep without some sedative.

Peripheral neuritis (Happy Feet) and /or foot drop is present in 2.58% POW (E) and 11.37% in POW (J) and is a cause of insomnia still.

Deafness of the sensori - neural type afflicts 3.22% POW (E) and 4.60% of POW (J) but 6.12% POW (E) and 3.87% POW (J) complain of poor hearing.

Marital problems such as divorce and separation appeared to be above average.

MISCELLANEOUS AND NUTRITIONAL

Gout is a problem in 1.93% POW (E) and in 2.95% in POW (J).

Diabetes mellitis appeared in 3.22% POW (E) and 2.95% POW (J).

Other conditions found were leprosy, lymphosarcoma, leukaemia, myasthenia gravis and thyrotoxicosis - all in POW (J).

OCULAR SYSTEM

This is another system ravaged by POW life. Again POW (J) suffered to a greater degree. 5.80% POW (E) complain of poor vision as do 15.55% POW (J).

Retrobulbar neuritis occurs in 0.06% POW (E) but in 8.96% in POW (J).

2.25% POW (E) and 4.85% of POW (J) have or have had cataract. Ambylopia is present in 0.62% POW (E) and in 6.14% POW (J). Scotoma is present in 0.49% POW (J) only. Keratitis occurs in 0.64% POW (E) and in 3.19% POW (J). Corneal scarring affects 6.40% POW (E) and 1.47% POW (J), this difference could be due to the sand blasting effect of service in the desert. Glaucoma is present in 0.96%POW (E) and 3.25% in POW (J).

It is well known that malnutrition with vitamin B deficiency caused many cases of severe optic nerve neuritis in POW (J). In many patients it progressed post - war and some cases, not detected on discharge, have become manifest as an early age.

RESPIRATORY SYSTEM

Respiratory problems were very common in all POW camps. In Europe, Japan, Korea and Manchuria it was intenseley cold and in the Three Pagoda Pass region on the Thai/Burma border, temperatures in winter, dropped below 15°C. As a result of poor nutrition, the absence of medication and satisfactory nursing care, respiratory infections tended to turn into pneumonia and was dreaded by all. One had to wait for the crisis. Clothing in most areas was inadequate, especially in the Asiatic theatre.

As a result, chronic bronchitis is present in 18.38% POW(E) and 25.13% of POW (J). Emphysema was found in 11.61% of POW (E) and in 9.71% POW (J) The mortality from pneumonia was very high in all POW camps.

The ready availability of tobacco, in some form or other in POW camps resulted in most men smoking heavily as this relieved the pangs of hunger and tended to alleviate stress.

Carcinoma of the lung was present in 1.22% and carcinoma of the larynx in 0. 12% in POW (J) only Silicosis occurred in 0.32% POW (E) and 0.065% POW (J). See addendum.

SKELETAL SYSTEM

This is another system that took a battering in both groups. The forced work and the long marches by weak and sick men, both in Europe and Asia, under appalling conditions, took their toll, especially among POW (J) who were forced to do very heavy labouring work, particularly on the Thai/Burma Railway and in the coal and copper mines in Japan where other men had to work in steel mills, wharves and in ship building yards.

The very high incidence of degenerative conditions in this system suggests that malnutrition caused deterioration in the ability of bones and joints to withstand the physical strain of the labour involved. It is no wonder that the figures are so startling.

Cervical spondylosis among POW (E) is 9.35% and a very high 35.77% in POW (J) all currently being treated for this condition.

Thoraco - lumbar spondylosis is present in 10.96% POW (E) and in a staggering 40.19% of POW (J) . Chronic backache is found in 4.51% POW (E) and in 28.33% POW (J). Pain and limitation of movement of the shoulders and upper extremity afflicts 4.83% POW (E) and 28.33% POW (J).

Pain and limitation of movement of the hips and l xtremity is present in 9.35% POW (E) and in 30.73% POW (J).

EXPOSURE TO RADIATION

The atomic bombs undoubtedly saved the lives of all prisoners in Japanese hands. They knew that they were all to be executed, probably in August or early September, 1945. After Japan's surrender this latter point was confirmed in written Japanese orders.

There were many men who witnessed one or other atomic explosions, some very close to the epicentre, who survived and are living to day.

A large number of men were evacuated through Nagasaki shortly after the explosion. Very many men were exposed to the rain that fell soon after the explosion, this rain was almost certainly radio - active and this could explain the large number suffering from hyperkeratoses and basal cell carcinoma.

As it may be of interest, the complete figures are given below:

Hyperkeratosis and / or basal cell carcinoma	57.66%
Carcinoma of larynx	0.61%
Carcinoma of colon	0.61%
Carcinoma of bone	0.61%
Leukaemia	0.61%
Melanoma	0.61%
Lymphosarcoma	0.61%
Unspecified carcinoma	0.61%
Cerebral Tumour	0.61%
Cataract	6.31%
Blindness	0.61%
Papulo - mascular atrophy	0.61%
Chronic rashes	17.79%
Impotence	10.42%
Birth defects	1.22%

162 survivors were processed. No attempt is made to draw any conclusions.

SUMMARY

We believe that these Veterans are special people. They are all survivors of a disaster of huge proportions. The full extent of this disaster can only be found in the study of the causes of death of those who returned home but subsequently perished.

To survive took a great deal of courage and determination plus a large amount of luck and it was probably a matter of survival of the fittest. If this is accepted, it is most important to recognise that not all of the disabilities, so reluctantly revealed by the men, are due to age, but to a great extent are the end product of a period of years of exposure to the stresses, both mental and physical, endured as prisoners. We feel that it is necessary to point out that many claims for disabilities were denied by the Department for Veterans' Affairs, because the claimant had been advised to claim for a specific disease unwisely. If he had not been so specific in his claim it probably would have succeeded.

In addition, the panel was surprised at the lack of education in a very large number. They were not only illiterate but also inarticulate and would be quite unable to fill in the necessary claim forms.

The panel found that the wives were able to give a better history of disabilities than the men - particularly about nervous conditions. We found it very advantageous to have the wife present when interviewi a man as most of the men interviewed were reluctant to talk about their disabilities.

ADDENDUM

Tobacco of sorts was readily available in most camps and, indeed in some, was an issue. As a result, most men became heavy smokers for they found that smoking did relieve the stress and the pangs of hunger. The habit persisted on return to civilian life. On return to Australia, they were given a special tobacco or cigarette ration and thus the habit was further encouraged.

It is accepted that tobacco smoking is a cause of both cardio - vascular and respiratory disease. Therefore, in this way, most cardio - vascular and respiratory diseases are directly related to war service and thus pensionable.

It is accepted also that a sudden increase of fat and protein in the diet causes a significant increase in circulating lipids and is of great importance in causing atherosclerosis and thus of cardio - vascular disease.

A STUDY OF THE PRESENT HEALTH
OF EX-PRISONERS OF WAR

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UNDER THE AUSPICES OF THE

N.S.W. EX-PRISONERS OF WAR ASSOCIATION

AS AT 30TH JUNE, 1984

A STUDY OF THE PRESENT HEALTH OF EX - PRISONERS OF WAR

The age group surveyed was 60 - 70 years of age. The actual figures collected were from over 600 ex-prisoners of war, men and woman, interviewed personally by members of the panel, from disabilities already accepted by the Department of Veteran Affairs. This necessitated retaining some of the euphemisms used by the Department.

Other figures were obtained from certificates by doctors and from an Australia wide questionaire sent out by the N.S.W. Branch of the Prisoners of War Association.

Great care was taken to ensure that the disabilities listed were actually being treated or presently causing trouble to the ex-POW. The figures will therefore err on the conservative side.

Some features not listed were only found by accident and an accurate estimate was not possible. For instance, it was found that there was great difficulty in getting the men to talk freely of their disabilities. It became apparent that these men had accepted their often apparent disabilities as a way of life and had lived with them uncomplainingly for years. A major breakthrough was made when the wife was interviewed with the ex-POW. It was only then that the true story was revealed. It was also found that there had been a profound disruption to family life. Many ex-PsOW were divorced, separated or had unsatisfactory marriages. In many cases it was evident that it was only the understanding and devotion of the wife that had kept the marriage intact. Impotence and sterility were often the main causes of marriage breakdown as was "nerves". It was noticed also that most of the men interviewed showed some signs of depression.

It was also noticed that premature senility was a feature in very many of the ex-PsOW interviewed. It is possible that this could be a by-product of malnutrition and starvation.

Figures obtained from the Department showed 12,500 ex-PsOW surviving in Australia as at 30th June, 1983. Of these 8,300 were prisoners of the Japanese, POW (J); 3,000 were prisoners in Europe, POW (E) and there were 32 prisoners of the Koreans.

The following tables have been sent to the Department of Veteran Affairs for their consideration.

The tables have also been sent to interested bodies in the UK., USA, and New Zealand.

	POW (E)		POW (J)		POW (TOTAL)	
	310	16.00%	1627	84.00%	1937	100%
ALIMENTARY SYSTEM						
Chronic Indigestion	71	22.90	421	25.87	492	25.40
Gastric Ulcer	23	7.41	121	7.43	144	7.43
Duodenal Ulcer	53	17.09	276	16.96	329	16.98
Chronic Diarrhoea	45	14.51	374	22.98	419	21.63
Faecal Incontinence	0		39	2.39	39	2.01
Diverticulosis	35	11.29	145	8.91	180	9.29
Strongyloides	0		219	13.46	219	11.30
Other Helminths	0		35	2.15	35	1.80
Bilharzia	3	0.96	0		3	0.15
Hookworm	1	0.32	401	24.64	402	20.75
Amoebic Dysentery	3	0.96	117	7.19	120	6.19
Haemorroids	21	6.77	122	7.49	143	7.38
Hiatus Hernia	12	3.87	117	7.19	129	6.65
Oesophagitis	0		11	0.67	11	0.56
Inguinal Hernia	0		24	1.47	24	1.23
Umbilical Hernia	1	0.32	3	0.18	4	0.20
Cholecystitis	7	2.25	55	3.38	62	3.20
Pancreatitis	1	0.32	6	0.36	7	0.36
Cirrhosis of the Liver	0		14	0.86	14	0.72
Hepatomegaly	0		7	0.43	7	0.36
Unspecified Liver Trouble	3	0.97	36	2.21	39	2.01
Dysphagia	0		7	0.43	7	0.36
Chronic Small Bowel Obstruction	0		1	0.06	1	0.05
Carcinoma of the Mouth	0		2	0.12	2	0.10
Carcinoma of the Pharynx	0		1	0.06	1	0.05
Carcinoma of the Oesophagus	0		1	0.06	1	0.05
Carcinoma of the Stomach	1	0.32	2	0.12	3	0.15
Carcinoma of the Pancreas	0		2	0.12	2	0.10
Carcinoma of the Bowel	1	0.32	17	1.04	18	0.92
CARDIO-VASCULAR SYSTEM						
Hypertension	89	28.70	452	27.78	541	27.92
Cardiac Ischaemia and/or Infarct	41	13.22	426	26.18	467	24.10
Chronic Myocarditis	9	2.90	134	8.23	143	7.38
Stroke/Cerebral haemorrhage	13	4.19	114	7.00	127	6.55
Thrombophlebitis or Varicose Veins	5	1.61	26	1.59	31	1.60
Leg Cramps	1	0.32	28	1.72	29	1.49
Cerebral Atrophy	1	0.32	17	1.04	18	0.92
Oedema of Legs	1	0.32	17	1.04	18	0.92
Vaso-Vagal Attacks	1	0.32	21	1.29	22	1.13
Aortic Aneurism	4	1.29	16	0.98	20	1.03
Femoral By-Pass	1	0.32	6	0.36	7	0.36
Iliac Artery Occlusion	0		1	0.06	1	0.05
Splenomegaly	0		3	0.18	3	0.15
Peripheral Vascular Disease	16	5.16	79	4.85	95	4.90

	POW (E)		POW (J)		POW (TOTAL)	
DERMATALOGICAL SYSTEM						
B.C.C. & Hyperkeratosis	54	17.41	511	31.40	565	29.16
S.C.C.	3	0.96	35	2.15	38	1.96
Tinea	42	13.54	498	30.60	540	27.87
Chronic Dermatitis	47	15.16	381	23.41	428	22.09
Psoriasis	6	1.93	10	0.61	16	0.82
Melanoma	0		8	0.49	8	0.41
Ichthyosis	1	0.32	6	0.36	7	0.36
Urticaria	1	0.32	2	0.12	3	0.15
Vitelligo	1	0.32	2	0.12	3	0.15
Lupus Erythematosis	0		1	0.06	1	0.05
GENITO-URINARY SYSTEM						
Impotence	52	16.77	360	22.12	412	21.27
Sterility	10	3.22	83	5.10	93	4.80
Premature Ejaculation	0		5	0.30	5	0.25
TB Orchitis & Epididymitis	0		1	0.06	1	0.05
Testicular Atrophy	0		1	0.06	1	0.05
Pruritis Ani	0		38	2.33	38	1.96
Chronic Nephritis	1	0.32	1	0.06	2	0.10
Recurrent Miscarriage (Wife)	0		7	0.43	7	0.36
Birth Defects	0		3	0.18	3	0.15
Cystic Kidneys	0		1	0.06	1	0.05
Renal Calculi	3	0.96	36	2.21	39	2.01
Renal Failure	1	0.32	5	0.30	6	0.30
Nephrectomy	0		4	0.24	4	0.20
Urethral Stricture	0		3	0.18	3	0.15
Carcinoma of Breast (Mastectomy)	0		1	0.06	1	0.05
Carcinoma of Bladder	1	0.32	6	0.36	7	0.36
Carcinoma of Prostate	1	0.32	11	0.67	12	0.61
Carcinoma of Kidney	1	0.32	2	0.12	3	0.15
Carcinoma of Penis	0		1	0.06	1	0.05
NERVOUS SYSTEM						
Anxiety State	116	37.41	761	46.77	877	45.27
Nervous Dyspepsia	81	26.12	401	24.64	482	24.88
Stress	96	30.96	452	27.78	548	28.29
Inability to Cope	43	13.87	310	19.05	353	18.22
Mental Confusion	55	17.74	456	28.02	511	26.38
Loss of Concentration	111	35.80	453	27.84	564	29.11
Peripheral Neuritis	8	2.58	185	11.37	193	9.96
Insomnia & Nightmares	8	2.58	110	6.76	118	6.09
Deafness	10	3.22	75	4.60	85	4.38
Poor Hearing	19	6.12	63	3.87	82	4.23
Migraine/Headaches	6	1.93	51	3.13	57	2.94
Vertigo	4	1.29	32	1.96	36	1.85
Psychiatric	2	0.64	30	1.84	32	1.65
Psychoneurosis/Paranoia	3	0.96	27	1.65	30	1.54
Parkinson's Disease	5	1.61	28	1.72	33	1.70
Tinnitus	4	1.29	19	1.16	23	1.18
Epilepsy	0		14	0.86	14	0.72
Loss of Sense of Smell & Taste	1	0.32	2	0.12	3	0.15
Nightblindness	0		2	0.12	2	0.10
Cerebral Tumour	0		2	0.12	2	0.10
Foot-Drop	4	1.29	12	0.73	16	0.82

	POW (E)		POW (J)		POW (TOTAL)	
MISCELLANEOUS NUTRITIONAL						
Beriberi	0		9	0.55	9	0.46
Pellagra	0		5	0.30	5	0.25
Tropical Ulcer	0		12	0.73	12	0.61
Otitis Externa	1	0.32	1	0.06	2	0.10
Frost Bite	31	10.00	12	0.73	43	2.21
Pernicious Anaemia	0		1	0.06	1	0.05
Gout	6	1.93	48	2.95	54	2.78
Diabetes Mellitis	10	3.22	47	1.88	57	2.94
Cancer Unspecified	0		1	0.06	1	0.05
Birth Deformities	0		2	0.12	2	0.10
Lymphosacoma	0		1	0.06	1	0.05
Leukaemia	0		1	0.06	1	0.05
Leprosy	0		1	0.06	1	0.05
Thyrotoxicosis	0		4	0.24	4	0.20
Myaesthenia Gravis	0		1	0.06	1	0.05
OCULAR SYSTEM						
Ambylopia	2	0.64	100	6.14	102	5.26
Scotoma	0		8	0.49	8	0.41
Keratitis	2	0.64	52	3.19	54	2.78
Poor Vision	18	5.80	253	15.55	271	13.99
Chronic Conjunctivitis or Blepharitis	7	2.22	72	4.42	79	4.07
Corneal Ulcer	0		10	0.61	10	0.51
Optic Neuritis/Atrophy	0		10	0.61	10	0.51
Iritis	0		6	0.36	6	0.30
Granular Cornea	0		3	0.18	3	0.15
Papulo-Macular Atrophy	3	0.96	10	0.61	13	0.67
Detached Retina	1	0.32	15	0.92	16	0.82
Retinal Artery Thrombosis	0		5	0.30	5	0.25
Choriodo-Cyclitis	0		1	0.06	1	0.05
Retro-Bulbar Neuritis	3	0.96	140	8.96	143	8.78
Diabetic Retinopathy	1	0.32	2	0.12	3	0.15
Corneal Scarring	2	0.64	24	1.47	26	1.34
Total Blindness (Malnutrition)	1	0.32	13	0.79	14	0.72
Papulo-Macular Sclerosis	3	0.96	9	0.55	12	0.61
Optic Atrophy	0		6	0.36	6	0.30
Chorioditis	1	0.32	2	0.12	3	0.15
Retinal Haemorrhage	0		5	0.30	5	0.25
Loss of One Eye	0		6	0.36	6	0.30
Diplopia	1	0.32	17	1.04	18	0.92
Glaucoma	3	0.96	53	3.25	56	2.89
Cataract	7	2.25	79	4.85	86	4.43
Aphakia	0		3	0.18	3	0.15
Melanoma	0		1	0.06	1	0.05
Trachoma	2	0.64	0		2	0.10

	POW (E)		POW (J)		POW (TOTAL)	
RESPIRATORY SYSTEM						
Breathlessness (Non Specific)	4	1.29	52	3.19	56	2.89
Chronic Bronchitis	57	18.38	409	25.13	466	24.05
Emphysema	36	11.61	158	9.71	194	10.01
Tuberculosis	19	6.12	4	0.24	23	1.18
Recurrent Pneumonia	3	0.96	47	2.88	50	2.58
Chronic Sinusitis	17	5.48	119	7.31	136	7.02
Asthma	7	2.25	42	2.58	49	2.52
Carcinoma of the Lung	0		20	1.22	20	1.03
Spontaneous Pneumothorax	0		2	0.12	2	0.10
Silicosis	1	0.32	1	0.06	2	0.10
Recurrent Laryngitis	0		15	0.92	15	0.77
Carcinoma of the Larynx	0		2	0.12	2	0.10
SKELETAL SYSTEM						
Fracture of the Spine	1	0.32	10	0.61	11	0.56
Cervical Spondylosis	29	9.35	582	35.77	611	31.54
Thoraco-Lumbar Spondylosis	34	10.96	654	40.19	688	35.51
Chronic Backache	14	4.51	461	28.33	475	24.52
Limitation of Movement of Shoulder, Superior Extremity	15	4.83	461	28.33	476	24.57
Limitation of Movement of Knee, Inferior Extremity	29	9.35	500	30.73	529	27.31
Plantar Fasciculitis	0		5	0.30	5	0.25
Osteoporosis	0		5	0.30	5	0.25
Paget's Disease	1	0.32	0		1	

EXPOSURE TO RADIATION

Number Exposed Surveyed 163

Expressed as a percentage of Total No. POW(J) Exposed to radiation being 163.

Hyperkeratosis & B.C.C.	94	57.66
Impotence	17	10.42
Carcinoma of Larynx	1	0.61
Carcinoma of Colon	1	0.61
Carcinoma of Eyelid	1	0.61
Carcinoma of Bone	1	0.61
Leukemia	1	0.61
Melanoma	1	0.61
Cataract	10	6.13
Lymphosarcoma	1	0.61
Unspecified Carcinoma	1	0.61
Cerebral Tumour	1	0.61
Birth Defects	2	1.22
Chronic Rashes	29	17.79
Blindness	1	0.61
Papulo-Macular Atrophy	1	0.61

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Before the Senate Veterans Affairs Committee
June 30, 1987

As a member of the executive board of the National Association of Radiation Survivors and litigation chair, I have been requested to speak before this Committee with regard to the introduction of three pending bills to compensate the survivors of the testing of nuclear weapons in the Pacific, Nevada, and the occupation and cleanup forces ordered into the devastated cities of Hiroshima and Nagasaki shortly after August 6, 1945 and August 8, 1945 respectively.

Each bill, H.R. 1811, S 453 and S 1002 would, if implemented, allow V.A. compensation to the veterans and widows for certain cancers contracted as a result of exposure to radiation during said testing and occupation duty.

It is unclear to this Association (NARS) how the various types of cancers enumerated in the three bills were arrived at. We are aware that 80,000 scientific studies have been conducted at great expense, and that those studies have not found the answer to the puzzling question of the relationship of radiation exposure to the development of certain cancers. We do not know and probably will never know the exact amount or type of radiation that induces these horrible diseases. We do not believe that you, Gentlemen, know that answer any more than we do. Therefore, it is puzzling that three different bills have been introduced, each affirming for posterity that the cancers outlined in each respective bill are the only cancers that can be compensated for and none of the three agreeing with the others.

In addition to the three bills referred to above there are the following studies, each proclaiming to know the answer to this puzzle and each contradicting all the others:

Public Law 98-542(CFR3.311(b), Title 38 Code of Federal Regulations;

PG 21-1, Section 0-20 (Revised), Change 286, April 28, 1980, Procedures for Adjudication of Ionizing Radiation Claims;

Report of the National Institutes of Health
ad hoc Working Group to Develop
Radioepidemiological Tables;

Bier III;

Radiation Litigation: A Primer for the
Health Physicist.

The aforementioned studies and many others including the flawed study by Dr. Caldwell of the Centers for Disease Control have been the bibles, more or less, by which the Veterans Administration (V.A.) has decided claims submitted by radiation veterans and their widows, thereby, in their total confusion, denying over 99 percent of said claims. I will not go into the latest scandals perpetrated by the Veterans Administration upon the radiation veterans and their widows.

In addition to the above, the veterans are the only class of citizens in this country who have had their Constitutional rights abridged by the very agency that was instituted to protect their rights and those of their widows and children. Even murderers and rapists in this country have the privilege of a jury trial with counsel provided by the taxpayers if necessary. Social Security recipients, welfare recipients and all other classes of citizens in our great land have the inalienable right to trial by jury. We do not. We do not have judicial review of BVA decisions. We cannot hire an attorney to represent us before the BVA if we pay him more than $10.00. Our veterans -- the men who gave their lives, their limbs, their minds and their bodies to this great land of ours are second class citizens. Millions of taxpayer dollars have been spent trying to prove that radiation does not cause cancer and yet, last February a Justice Department attorney admitted in open court that our Government has known since the 1940s the dangers of radiation; that it could cause cancers; that it could cause genetic damage to children, but in spite of that, because of discretionary function, our Government felt it was worth the sacrifice of "a few men" for the good of the country.

In the courtroom that day there was a widow who had just lost her husband to cancer from his radiation exposure. In addition to that she had borne five genetically damaged children, one of whom lived. In addition, another widow was present with her daughter. The daughter had one arm. The other terminated at the elbow, the result of genetic damage. I could go on with the horror stories of just the members of our Association, not to mention the other victims of radiation exposure known to our Government.

At this time we would like to offer a few suggestions that would be more practical, less time-consuming and more moneywise than the course that has been followed to date. Instead of naming specific cancers to be compensated by the V.A., and mandating certain time periods in which those cancers can be diagnosed, we propose the following:

1. Ascertain from the V.A. exactly how many of the 4- or 5,000 claims filed by radiation victims are in actuality valid claims. It is our understanding that some of these claims may have no merit in that they were filed on a "just in case" basis. We may be grossly exaggerating the actual numbers of valid claims.

2. Veterans: All those presenting with cancers or illnesses as listed in the three bills listed above in whatever category (in addition to cataracts), be accorded full V.A. disability benefits. Since these men will probably not be living much longer and since a large majority are leukemias and thyroid cancers anyway, (a much smaller percentage are in the "Moderately Susceptible" and "Less susceptible" categories), and since it actually took the same amount of radiation to activate these cancers, these men should all be treated equally. You're just as dead whether by leukemia or pancreatic cancer.

   Widows: DIC is already reduced vis-a-vis the veterans benefits. Their dole is already small enough without reducing it because their husbands happened to die of one of the "less meaningful" cancers. They must still, in some cases, put children through school and provide food on the table.

   Veterans and Widows: Any Governmental pensions or gratuities, Social Security, Military, Workmen's Compensation or any other governmental benefits currently received by future recipients of V.A. benefits under these three bills shall not be offset by said V.A. benefits so that their current benefits and the V.A. benefits will not be reduced in any fashion, one from the other. Provide free medical care for all radiation related illnesses for the veterans plus CHAMPVA benefits for the widows of the radiation veterans and all other benefits normally provided all service-connected veterans and widows including retroactive benefits to the first day of filing for disability benefits on the part of the veteran and/or his widow.

Genetically damaged children: Provide free medical care for all children certified by competent medical practitioners to be the result of conception after the father's radiation exposure; one such practitioner provided by the Government; one provided by the child or guardian of the child; and one provided by selection of the other two practitioners.

In addition to the above, provision of therapeutic training for the genetically affected child if he or she is capable of training. If he or she is not capable of such training and cannot be cared for in his/her home environment, then in that case care must be provided by the Government in an institution of good repute where such training may be provided.

3. Time Limits: There are still victims of our bombings dying in Nagasaki and Hiroshima yearly. The Japanese have not put a time limit on the development of radiation-related cancers in benefits provided those victims. (Our government provides 50 percent of those benefits to these victims by way of hospitalization and checkups while providing nothing for our own). It has been 42 years since those bombings. There were approximately the same number of Japanese victims as our own military victims. There is no time limit on death. Since only 50,000 veterans have responded, out of approximately 250,000, to the toll-free number and only 5,000 have filed claims, and since these men were all older at the time of exposure than the Japanese dying today, it really shouldn't be that much more expensive to eliminate the time factor re diagnosis of cancer vis-a-vis the date of exposure.

4. Increase in Rad Dosage: If the above suggestions are adopted it should not be necessary to adopt either the formulae in S.453 and S.1002. Even should it be necessary to determine the increase in rad dosage, we are increasing the expense and time involved for additional studies, expert witnesses, and time is something we have too little of. We are all dying. Each month our membership is decreased because of the death of veterans. Our organization is now comprised mainly of widows -- old women too tired to fight; too ill or too discouraged.

Time is of the essence, Gentlemen -- please consider passage of S 1002 as the most fair bill for these men and women who have no other recourse. We have been foreclosed from seeking any other relief -- the only class of citizen in this country to be denied our basic Constitutional rights of redress to the courts. Judicial review of BVA decisions, and a meaningless limit of $10.00 attorney fees to represent us before the BVA, not to mention the Feres doctrine have effectively prohibited us from exercising those Constitutional rights. The widows and children were never in the military, yet the same rules apply to them as apply to the veterans. Try to put yourselves in our shoes. I'm sure some of you are combat veterans. Had you been exposed to radiation in experimental tests and developed cancer as a result, what would your answer be to this plea for justice? If you had a child born with an arm or leg or other parts of his body missing as a result of your exposure, what would your answer be?

These are the men who fought so courageously for their country -- only to be shot down by their country on the battlefield of radiation experimentation by the nation they loved and revered. Why are not we as entitled to representation in the courts as other citizens? If these men had been murderers or rapists they not only have a right to trial by jury but they have the right to a court-appointed attorney. Are we any less? These men fought for the rights of you, Gentlemen, for your rights to sit in judgment of us.

On June 22, 1987 a decision came down from the Ninth Circuit Court of Appeals stating that survivors of government employees who developed cancer after exposure to radiation from atmospheric nuclear testing cannot sue the government or its contractors for damages.

When we realize that the Japanese government has been compensated over the years by financing 50 percent of the Radiation Effects Research Foundation and funding two hospitals for radiation victims; that the Japanese government was compensated for the contamination by radiation of the "Lucky Dragon"; that the peoples of the islands of Utirik and Rongelap were compensated for their injuries and that millions have been spent to try to decontaminate Bikini; that out-of-court settlements have been made to Three Mile Islanders; and that $750,000 settlements were made to several members of the Challenger crew, we wonder why -- why us, and to quote a recent newspaper advertisement: "MY COUNTRY, MY COUNTRY, WHY HAVE YOU FORSAKEN US?"

NATIONAL ASSOCIATION OF
RADIATION SURVIVORS

June 30, 1987

TESTIMONY OF THE NATIONAL ASSOCIATION OF RADIATION SURVIVORS TO THE SENATE COMMITTEE ON VETERANS AFFAIRS ON JULE 30, 1987

SUBJECT: TESTIMONY ON THREE BILLS TO COMPENSATE ATOMIC VETERANS: S. 1002; S. 453;, H.R. 1811.
TO: COMMITTEE CHAIRMAN ALAN CRANSTON AND MEMBERS OF THE FULL COMMITTEE
PRESENTED BY: NARS CHAIR JOHN BURKE, NARS VICE-PRESIDENT BILL ROWE, LITIGATION DIRECTOR ALICE "PAT" BROUDY, AND NARS MEMBER WALTER HOOKE: THE NARS PANEL

Good day, Chairman Cranston and members of your Committee and other guests. I will first introduce the NARS panel for this hearing, and then, as Chair, express my personal views on the bills before us. The written testimony before you does not necessarily reflect the official position of NARS, although it may well do so after it is presented to our membership at our fifth national convention later this year.

This year, 1987, marks the fifth year NARS, the National Association of Radiation Survivors, has come before either this Subcommittee or the full Committee on Veterans Affairs to present -written and/or oral testimony on legislation to compensate veterans alleging damage from their exposure to varying levels of ionizing radiation while present at the atmospheric nuclear weapons tests conducted by our Government from 1945 until mid-1962. As we review our past testimony urging presumptive compensation for veterans suffering from any of the full range of radiogenic (radiation-caused) diseases, we find it continues to be ignored. We must reiterate, as we have each of the past years, that if the Veterans Administration would simply adhere to Title 38, there would be no need for this hearing or any subsequent hearing. But, as before, we find there has been no substantive change in the compensation awarded to atomic veterans or to their surviving widows and children. Rather, the rate of granted claims has plummeted to zero percent for the past year and one half. Overall, of an estimated 6,000 ionizing radiation claims filed, only 22 total have been granted compensation, and five of these received a mere 10% Disability rating for skin cancer or radiation burns. Nearly two years have passed since new regulations for radiogenic diseases were adopted by the Veterans Administration, which added over a dozen additional cancers to the two previously accepted as compensatable. Yet, again, every single claim based on radiation exposure has been denied, excepting, curiously, that of one widow, who is one

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Karl Z Morgan Ph D

of the individual plaintiffs in the NARS versus Turnage lawsuit . We will note that the granting of her claim did not result in any monetary compensation to Marthanne Conner.

Even more disheartening, however, are detailed findings, from sworn testimony in federal court from officials within the Veterans Administration, of an adjudication system for compensation which is riddled with corrupt practices, in contravention of its own regulations. These practices were well-described in testimony presented by Gordon Erspamer, a member of NARS Legal Advisory Board, and lead attorney in the NARS lawsuit, while speaking as an individual, before a joint session of the House and Senate Veterans Affairs Committees on March 17 of this year. He described a pattern of "churning" claims by adjudicators in order to obtain merit pay bonuses for productivity; of denial of legal obligations to provide opportunities for personal hearings; of an illegal internal procedure called the "administrative disallowance" or "record purpose disallowance" based upon spurious VA requests for irrelevant documents; or arbitrary denial of claims without any rationale; and the extraordinary "error" rates in the VA Field Offices, far in excess of acceptable levels, or of those officially reported. These clearly indicate that the adjudication system for VA compensation claims, described as "non-adversarial and in favor of the veteran" is, in fact, a system totally out of control, rampantly unjust to our disabled veterans, and one unable to clean up its own illegal practices. Therefore, whatever this Congress passes as legislation to compensate atomic veterans which is dependent upon th Veterans Administration to implement is doomed to be an exercise in futility.

Before we begin our discussion of the three bills before us today, I would like to state our overall preference for the approach prepared by the American Legion in their testimony last month before the House counterpart of this Committee. We would prefer a final bill emerging from the conference of the House and Senate veterans Affairs Committees which presumptively compensates the range of illnesses listed in the American Legion testimony:

All leukemias, except chronic lymphatic leukemia;

Polycythemia vera;

Thyroid cancer, female breast cancer, lung cancer, liver cancer, cancer of the bone marrow, skin cancer, esopahageal cancer, stomach cancer, colon cancer, pancreatic cancer, kidney cancer, urinary-bladder cancer, salivary galand cancer, and multiple myeloma.

We do, however, wish to add that there should be no latency period specified for the onsel of these diseases, as the outer limits of this period is still unknown, but is now believed, via recent data from the Hiroshima/Nagasaki studies, to be forty years or llonger after exposure to ionizing radiation.

Our testimony today will first briefly discuss the three bills presently before us, and our reasons for preferring the Cranston-Simon bill, S. 1002, in spite of its serious shortcomings. The balance of our testimony will focus on compensation issues. including the absence of due process in the Veterans Administration adjudication procedures; continued reliance by the Veterans Administration on the false and dishonest "official" dose reconstructions obtained by the Defense Nuclear Agency, and the limited range of illnesse deemed compensatable in the various bills before us today as well as those in the most recent listing of radiogenic illnesses issued by the Veterans Administration. We will also provide an update to this committee on the system Canada is using to compensate its atomic veterans, many of whom served alongside our veterans at the Nevada Test Site, or in the Pacific. We will close by once again describing the plight of our ever-growing cadre of atomic widows, as well as that of children who have been affected genetically by their father's radiation exposure while in service.

Of the three bills before us, two, S. 453 and H.R.1811, although welcomed by NARS as well-intentioned, and exemplifying the proverbial "foot in the door", are so inadequate in terms of the diseases accepted as radiogenic as to be unacceptable. We also, in the case of the Senate bill, wish to note our unease that its co-sponsors, in their presentation of the bill, indicate a lack of support for the repeal of the Warner Amendment, an unconstitutional bill which severely limits the right to redress by atomic veterans. In addition to the paucity of radiogenic diseases listed--far fewer than those the Veterans Administration itself has accepted--there is no help for atomic widows or genetically-affected offspring. Turning to S.1002, we welcome the broad range of radiogenic illnesses accepted, but object strenuously to the three classes of treatment, depending on the cancer site. To quote the Director of our Atomic Widows, Mrs. Jean Ralph, in a letter to Senators Simon and Cranston:

> Harold J. Ralph, U.S. Marine, my husband, who was with the Hiroshima/Nagasaki occupation forces and in the Nagasaki radiation for nine months, died on August 18, 1978, a multiple myeloma victim. Multiple myeloma is a bone marrow cancer. The bone marrow is highly sensitive to radiation. Under S.1002, my VA claim would be considered under the rate of 50% of compensation. Senator Cranston, my husband was not 50% exposed to radiation; he was not 50% sick, and he is not 50% dead. I cannot apprciate the bill in its present form.

Many of us in NARS, like Jean Ralph, would support S. 1002 whole-heartedly IF each of the three categories of radiogenic diseases is considered at 100%. This parallels quite well the list of compensatable radiogenic illnesses accepted by the Veterans Administration. We, naturally, would prefer to utilize the full range of radiogenic illnesses which have and continue to be used by the Government of Japan as those for which residents or early entrants to Hiroshima and Nagasaki in August of 1945 are receiving compensation and health care. As regards the procedures outlined to revise the "official" dose reconstructions, we can only comment that the entire dosimetry program of the Nuclear Weapons Testing program from 1945 until 1962 was so flawed that any adjustment of its figures by whatever amount or percentage is ridiculous. You do not arrive at truth by manipulating falsehood.

In each of these bills, we note a lack of attention paid to the plight of the fastest-growing segment of our membership--the atomic widows, nor are the genetic problems of offspring addressed. We will discuss these issues below.

OTHER ISSUES: ABSENCE OF DUE PROCESS IN THE VETERANS ADMINISTRATION CLAIMS PROCESS

In previous years, we have noted material from the hearing record of the NARS v Walters/Turnage lawsuit, now in its fourth year. In this testimony, we will simply refer members of the House Veterans Affairs Committee to the testimony presented by Gordon Erspamer before the Joint Committee meeting on March 17, 1987. In this submission are listed some of the more egregious practices of the VA disclosed in discovery during this named lawsuit. They show clearly a pattern of illegalities and deprivation of due process rights for disabled veterans. The conduct of the Veterans Administration during the lawsuit has demonstrated such a callous disregard of the law that monetary sanctions totalling $105,000.00 have been levied against the Veterans Administration, and have already been paid by the agency. The appointment of a Special Master to supervise the Veterans Administration for the balance of the lawsuit, at the expense of the agency, a most unusual penalty, has also occurred.

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OFFICIAL DOSE RECONSTRUCTIONS

In the analysis of the radiation injury compensation issue presented by Senator Alan Cranston to accompany S.1002, material calling into serious question the dose reconstructions prepared by contractors of the Defense Nuclear Agency and used to deny ionizing radiation injury claims by the Veterans Administration was included. We wish to state categorically that any future reliance on these official dose reconstructions is unjustified, given the record of actual badging of participants--fewer than 15% being badged throughout the operation; the lack of quality control of the badge reading; the inadequate monitoring devices used; the inability to monitor much of the ionizing radiation present to which a participant was exposed; and the absence of individual dose reconstructions based upon each individual's activities. Only one example will be cited of the eight independent dose reconstructions known to NARS, that of a veteran of Camp Hanford, Washington. He was informed by letter from the Defense Nuclear Agency that he received NO radiation. His independent dose reconstruction, based upon recently declassified documents, was 300 RADS TO HIS SCALP!!!!

LIMITED RANGE OF ILLNESSES DEEMED COMPENSATABLE BY THE PRESENT BILLS AND BY THE VA

NARS again urges that the appended list of radiogenic diseases be used as those deemed compensatable . It, as noted earlier, represents those accepted by researchers in Japan, who have conducted the bulk of independent research on radiogenic illnesses following atomic bomb detonations. Since these are accepted by the Japanese government, and have resulted for many years in compensation pensions and health care, we see no valid scientific reason our own Governmental agencies cannot benefit by over forty years of research and accept the list as also compensatable in the United States.

Finally, we wish to share with the Committee the results of our mailed survey, as of the first of this year. At that point, we had received responses from just under 4,000 atomic veterans or their surviving families. Our DATABASE now has over 5,000 entries with data on 5,000 atomic veterans, and the percentages are remaining constant.

As of 2/87, the NARS Database shows the following cancers and other illnesses out of 3,950 radiation survivors reporting:

No.	CANCER TYPE	NO.NARS	%
1	Leukemia	45	1.139
2	Bone Cancer	18	0.445
3	Multiple Myeloma	14	0.354
4	Thyroid	23	0.582
5	Breast (Female)	0	0
6	Lung	93	2.354
7	Liver	Note 2	
8	Skin	323	8.177
9	Esophagus	5	0.126
10	Stomach	9	0.227
11	Colon	60	1.518
12	Pancreas	8	0.202
13	Kidney	22	0.556
14	Urinary-Bladder	33	0.835
15	Salivary Gland	4	0.101
	TOTALS =	657	16.632
	Field Total =	3,950	

Added NARS Data

Unspecified Cancers	42
Other Cancers	64
Other Illnesses/Dead	566
No Illnesses Reported	341

Note #1: Kidney, Urinary, & Bladder combined
Note #2: Liver Cancers included in NARS "Other" category.

WHAT CANADA IS DOING TO COMPENSATE ITS ATOMIC VETERANS

NARS has received communications updating the House of Commons transcripts which we appended to testimony we presented in 1985 and 1986. According to Parliament member Ray Skelly, and communications from our NARS Canadian Director, Al Draper, the Pension Board of Canada awards the atomic veteran a "Specially Meritorious" award under their Section 24 . This section was recently amended so that the widow will receive the full pension of the deceased atomic veteran for a year, and then is shifted to a "Widows Pension" worth about $1000 a month, with adjustments upward if there are dependent children who have not finished their schooling. The system is apparently working very well, and the veterans are compensated presumptively. Given that many of the veterans already compensated served alongside our own atomic veterans, it seems just that the United States veterans be compensated forthwith.

THE ATOMIC WIDOW

As NARS has noted in previous testimony, our Death Certificate Study indicates that atomic veterans are dying some 22 years earlier, on the average, than white males in the United States who were not ordered to observe atmospheric nuclear weapons tests. What this statistic means is that there are now hundreds of atomic widows in their late forties or fifties, most with children still in school, who must shoulder the burden of rearing and supporting their families alone, without the help and income formerly provided by the atomic veteran. Mrs. Jean Ralph, already identified, sent out over 500 letters to widows on NARS membership lists, alerting them to the amended VA list of radiogenic illnesses, urging that they reopen their Death and Indemnity claims. The notes she has received are heart-breaking. Many cannot work, few can assure their children the benefits of a college education, some have already sold the family home they struggled together to purchase, and have moved to small apartments, public housing, or into trailers. Their incomes are so reduced, it has proved impossible to keep up the home mortgage payments. So there are hundreds and perhaps thousands of middle-aged women, some of whom have tried for eight to ten years to obtain VA benefits, doomed to struggle against a Byzantine system which does not fulfill its pledge to care for the widow ond orphans of men who served their country in the military. We therefore welcome the Cranston bill, S. 1002, for the assistance it will offer atomic widows.

GENETICALLY-AFFECTED CHILDREN

In previous testimony, NARS has provided reports on chromosome abnormalities among its atomic veterans, which are accompanied by genetic problems in their offspring. Recently, work on the atomic bomb survivors of Hiroshima indicates that there is an increase in somatic cell mutations at specific sites on chromosomes found in the bodies of atomic bomb survivors. In addition, the incidence of these very specific chromosome alterations can be related to the dose of radiation to which these survivors were exposed. (Science, 24 April, 1987, page 445) Therefore, we again urge that chromosome tests be made available for atomic veterans whose offspring exhibit genetic defects which may be related to radiation exposure, that these tests be available gratis, and that they be performed by independent cytogenetic laboratories. After a reasonable number of such determinations have been done, we urge that they be evaluated by independent geneticists, and if a correlation is found, appropriate legislation to compensate the offspring be developed. We would suggest legislation introduced in the 99th Congress by Senator Paul Simon be used as a possible model.

Thank you for your attention.

Presented by John Burke, President of NARS

Testimony prepared by Dorothy Legarreta, Ph.D.

Dorothy Legarreta

ADMINISTRATIVE DIRECTOR, NARS

HIROSHI TERASHIMA, M.D.
INTERNAL MEDICINE

Diplomate American Board of Internal Medicine

411 - 30th Street, Suite 504
Oakland, California 94609
(415) 835 2744

October 22, 1984

Mr. Kanji Kuramoto
1109 Shell Gate Place
Alameda, California 94501

Dear Mr. Kuramoto:

The following medical illnesses are equivalent to what is listed as medical illnesses qualifying for government benefit for atomic bomb survivors: Japan

1. Anemia. Leukemia
2. Liver Function abnormalities (except viral or serum hepatitis
3. Cancer
4. Endocrine (hormone) abnormalities
   Example: Diabetes mellitus
5. Stroke, brain hemorrhage
6. Circulatory organ dysfunction
   Example: Hypertensive cardiovascular diseases, etc.
7. Kidney dysfunction
   Example: Chronic nephritis, nephrotic syndrome
8. Visual organ dysfunction
   Example: Cataract (except hereditary type)
9. Respiratory organ dysfunction
   Example: Lung tumor
10. Musculoskeletal system abnormalities
    Example: Deforming arthritis
11. Digestive system abnormalities from ulcer/inflammation
    Example: Stomach ulcer

Sincerely,

H. Terashima
Hiroshi Terashima, M.D.

HT:w

A RESUME OF MEASURES FOR ATOMIC BOMB SURVIVORS

IN JAPAN

Ministry of Health and Welfare

August 1985

The Atomic Bomb Survivors Medical Treatment Law and subsequently the Atomic Bomb Survivors Special Measures Law were enacted in 1957 and 1963, respectively, for the purpose of promoting medical care and welfare measures for atomic bomb survivors exposed in Hiroshima and Nagasaki.

I. Atomic bomb survivors as defined by the law of 1957 are provided health handbooks. The number of these handbook holders as of 31 March 1985 is 367,344. These handbooks are issued by prefectural governors and the mayors of Hiroshima City and Nagasaki City upon application by atomic bomb survivors who conform to any of the following:

1. A person who at the time of the atomic bomb detonation was directly exposed within Hiroshima City or Nagasaki City or within a specified adjacent area of these cities or a person who at the time was in utero of a mother under the foregoing situation.
2. A person who entered within two weeks after the atomic bomb detonation a zone about two kilometers from the hypocenter of the atomic bomb or a person who at the time was in utero of a mother under the foregoing situation.
3. A person who engaged in relief of atomic bomb survivors or other activities to be physically affected by radiation or a person who at the time was in utero of a mother in the foregoing situation.

II. At present, the Japanese Government provides to health handbook holders the following Medical care, allowances, and welfare measures. Funds are also provided for research and investigation related to atomic bomb survivors. The total budgetary outlay in the fiscal year (FY) of 1985, that is, from April 1985 to March 1986, is 429.0 million dollars computed at an exchange rate of 240 yen to one US dollar.

A. The budget for medical care to be provided this year in accordance with the Atomic Bomb Survivors Medical Treatment Law is 88.4 million dollars which is allocated as follows:

1. $500,000 for medical treatment of designated diseases. Cost of medical care involved in treatment of diseases attributable to atomic bomb radiation is borne in its entirety by the Government.
2. $81,600,000 for medical treatment of diseases in general. For treatment of diseases other than designated diseases, the Government bears that portion of the expenses not covered by health insurance. Consequently, atomic bomb survivors need not bear any expense involved in treatment of diseases in general.
3. $6,300,000 for health examination of atomic bomb survivors. Health examinations are available four times a year, i.e. regular examinations are provided twice a year and in addition two examinations are available at request.

B. In accordance with the Atomic Bomb Survivors Special Measures Law, various allowances as described below are provided to atomic bomb survivors with the amount for this fiscal year totalling 327.0 million dollars.

1. Special Medical Care Allowance: $450 per month will be payable to survivors who are suffering from diseases or injuries designated by the Minister of Health and Welfare to be attributable to atomic bomb radiation (2,014 cases in FY 1984).
2. Special Allowance: $166 per month will be payable to survivors who have been cured of these diseases or injuries designated by the Minister of Health and Welfare to be attributable to atomic bomb radiation (1,762 cases in FY 1984).
3. Atomic Bomb Microcephaly Allowance: $155 per month will be payable to survivors who have microcephaly due to atomic bomb radiation (24 cases in FY 1984).
4. Health Management Allowance: $110 per month will be payable to survivors who have any of eleven types of disorders including circulatory disturbances such as hypertensive heart disease, motor disturbances, visual disturbances such as cataract, hematopoietic disturbances, liver function disturbances, [illegible] endocrine disturbances (216,538 cases in FY 1984).
5. Health Allowance: $55 per month will be payable [illegible] survivors who were directly exposed within two kilometers from the hypocenter and those [illegible] at the time were in utero of mothers in the foregoing situation (25,788 cases in FY [illegible]

   Health Allowance: $110 per month will be payable to su[illegible] of the foregoing category who are either physically handicapped of the 1st to 3rd gr[illegible]ed in the Physically Handicapped Persons Welfare Law or suffering with keloids or [illegible] alone without any kin and 70 years of age or more (2,096 cases in FY 1984).
6. Nursing Aid Allowance: $152 per month will be payable to survivors [illegible] mental or physical disturbances requiring the employment of a person for nursing aid ([illegible] cases in FY 1984).
7. Family Aid Allowance: $47 per month will be payable to survivors having severe disturbances requiring the assistance of a non-paid person (21,733 cases in FY 1984).
8. Funeral Allowance: When an atomic bomb survivor dies, $471 will be payable to the person who holds the funeral (5,808 cases in FY 1984).

The Special Allowance, Health Management Allowance, Health Allowance, Nursing Aid Allowance, and Family Aid Allowance are not payable to those having a family member paying an annual income tax exceeding $3,362 or when the annual income of a family with two children and with one working parent exceeds $35,247.

C. As welfare measures, a total of 4.9 million dollars is made available as subsidies for the following:

1. Atomic Bomb Hospitals and Homes for Atomic Bomb Survivors
2. Home helper and consultation services for atomic bomb survivors
3. Atomic Bomb Memorial Ceremonies

D. For research and investigation of atomic bomb survivors, a budget of 8.7 million dollars is provided for the following:

1. Research program of Radiation Effects Research Foundation
2. Research and investigation of atomic bomb diseases
3. Survey on present status of atomic bomb survivors

COLORADO ATOMIC-AGENT ORANGE VETERANS COALITION
P.O. Box 2735 • Evergreen, Colorado 80439 • (303) 674-3127
John Burke- Director

IN COOPERATION WITH

JOHN BURKE-PRESIDENT
Box 2735
Evergreen, Colorado
303-674-3127

NATIONAL ASSOCIATION OF
RADIATION SURVIVORS

DORTHY LEGARRETA Ph.D.
Executive Director
78 El Camino Real
Berkley, California
415-654-0100

Excerpts from oral testimony of
John Burke before the United States
Senate- Committee of Veterans Affairs.
Chairman- The Honorable Alan Cranston.
June 30, 1987

Inclosures:

1. Rocky Mountain News Article
2. War Dept. Document from Manhatten Dist. Dated 30 October 1943
3. Crossroads Document Dated 3 August 1946
4. White House Document dated Jan. 31 ,1978
5. Letter from John Burke to The American Legion Dated June 8, 1987

Dismissal of radiation suit upheld

SAN FRANCISCO (AP) — Soldiers exposed to radiation during atmospheric testing and their survivors cannot sue the government, according to a federal appeals court ruling that also protected military contractors from such suits.

The 9th U.S. Circuit Court of Appeals on Monday upheld a lower-court dismissal of a lawsuit by 28 families and three participants in testing, and at the same time upheld a 1984 law protecting military contractors.

That law had the legitimate purpose of encouraging contractors to remain in the nuclear weapons program, a three-judge panel of the court ruled.

Quoting a 1986 decision by the 1st Circuit Court in Boston, the 9th Circuit judges said Congress passed the law believing suits would threaten the participation of private contractors in weapons testing.

It said that the government, the only remaining defendant, is also immune from damages because the actions blamed for injury were discretionary policy decisions that are protected by law.

A warning at the time of the tests could have interfered with the goal of "studying the psychological reactions of troops to nuclear weapons," it said, quoting one officer as explaining that the purpose was "to teach soldiers to respect radioactivity, not to fear it."

Veterans have been denied government benefits for radiation exposure.

SECRET

This document consists of 2 pages.
Copy No / of 4, Series A.

WAR DEPARTMENT
UNITED STATES ENGINEER OFFICE
MANHATTAN DISTRICT
OAK RIDGE, TENNESSEE

IN REPLY REFER TO
EIDM D-1-a

DECLASSIFIED
E.O. 11652
NND 730039
By ERC NARS, Date 6-5-74

30 October 1943

MEMORANDUM to: Brigadier General L. R. Groves.

1. Inclosed is a summary of the report written by Drs. James B. Conent, Chairman, A. H. Compton, and H. C. Urey, comprising a Subcommittee of the S-1 Executive Committee on the "Use of Radioactive Materials as a Military Weapon." It is recommended that a decision be obtained from competent authority authorizing additional work pertaining to the use of radioactive materials in order that this country may be ready to use such materials or be ready to defend itself against the use of such materials. The following program is recommended:

a. Immediate formation of a research and study group at the University of Chicago under supervision of the present Area Engineer. Assignment to this group of competent individuals now working on dust and liquid disseminating munitions and field testing of chemical warfare agents from the National Defense Research Council.

b. Assigament of a competent Chemical Warfare Service officer to the Chicago Area Engineer, who would become familiar with, and work on, the problem under study by the University of Chicago. This officer should be experienced in the practical use of gas warfare.

c. The responsibility of the above organization would be:

(1) Develop radiation indicating instruments, expand present facilities of the Victoreen Company, and prepare a trial order for instruments with this company.

(2) Make theoretical studies pertaining to the methods, means and equipment for disseminating radioactive material as a weapon of warfare.

(3) Conduct field tests in isolated locations, such as Clinton Engineer Works or Hanford Engineer Works, using a non-radioactive tracer material.

(4) Prepare an instruction manual for the use of, or the defense against, radioactive weapons. This manual would be similar to that now used by the Chemical Warfare Service for gas warfare.

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NO. 3 OF 6 COPIES, SERIES A

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NND730039
By ERC NARS, Date 6-5-74

23

APPENDIX IV (A. V. PETERSON)

MILITARY USE OF RADIO-ACTIVE MATERIALS AND ORGANIZATION FOR DEFENSE

1. GENERAL

The use of radio-active materials for military purposes arises from the physiological effects in human beings resulting from exposure to high energy radiation. (Depending upon the intensity and time of exposure, incapacitation or death may occur. The effects come about as the result of the destruction of certain cells in the body and from prolonged degenerative processes in other cells not destroyed. The cells most severely damaged are the blood-forming ones, and interference with the natural production of constituents of blood results. Secondary effects arise through lowered resistance of the body, and the irradiated person becomes susceptible to infection and contraction of disease.) In general, persons receiving 100 roentgens or total body radiation in a day will get severe radiation sickness and those receiving 600 to 1,000 roentgens within a few days will be sick for a prolonged period or will die.

Exposure to radiation can be both external and internal. External radiation is that resulting from exposure to gamma rays or from beta rays close to the body. Internal radiation is that resulting from exposure to rays caused by the inhalation or ingestion of radio-active materials.

2. RADIO-ACTIVE MATERIALS A CHEMICAL WARFARE AGENT

Objectively, the employment of radio-active materials and chemical agents are alike. These objectives can be listed as follows:

1. To inflict casualties.
2. To demoralize personnel.
3. To contaminate areas.
4. To threaten the enemy.

Radio-active materials, however, possess many unique properties which will make their tactical use different from that of other chemical agents. To bring out the chief differences, a comparison of the characteristics of radio-active materials with those of regular chemical agents is shown on sheet 10.

The factors involved in employing radio-active materials effectively are as follows:

1. Large expense and small quantities available.
2. Must be used immediately for maximum effect.
3. Must be kept heavily shielded until used.
4. Cannot be detected easily, and takes effect slowly.
5. Highly persistent, and can contaminate an area for many months. Immediate decontamination could take place only at the sacrifice of personnel.
6. No suitable individual protection equipment effective against it, with the possible exception of the use of gas masks or respirators (which can prevent inhalation of radio-active dust). Suitable collective protection may be afforded, however, by buildings, air raid shelters, and dug-outs, and any structure that can act as a shield against radiation.

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STAFF, COMMANDER JTF-1
USS HAVEN AH-12
c/o Fleet Post Office
San Francisco, California

TOP SECRET

SECRET

3 August 1946

Subject: Review of Radiological Safety Situation.

(a) As little as 0.5 r/24 hrs daily for 3 months may cause progressively increasing sterility which does not promptly disapear and which upon disapearing may still result in defective children in successive generations.

(b) Such daily exposure for less than 3 months may cause defects in children of the first and second generations.

(c) 1.0 r/day for 4-6 months causes a progressive anemia which in susceptible cases may continue to be progressive even when exposure is stopped.

(d) There is good expermental evidence to show that in some tissues there is never complete recovery from radiation injury no matter how small.

(e) The majority of personnel exposed at Bikini are young, and their heredity is of prime importance to them and their families.

Important

6. The Radiological Safety Section by original contracts will lose alone 350 expert monitors and instrument men who will return by air or ship by August 15th. These men have spent all the elapsed time from civilian and military pursuits which they or their organization could be persuaded to spare. This leaves a small handful of approximately 24 Navy and Army men, and a few civilians recently trained as monitors to protect the large body of men working on the 70 odd target vessels. No monitors are available from civilian or Navy or Army sources in the U.S.A.

7. There are many other complications involving the operating fleet which, while minor, are a nuisance such as the radioactivity accumulating on the marine growth on the hulls, in evaporators, on the beaches, in the boats, and from being tracked in on the decks of ships themselves, etc., etc..

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(5)

THE WHITE HOUSE
WASHINGTON

January 31, 1978

MEMORANDUM TO: STU EIZENSTAT
FROM: FRANK RAINES
SUBJECT: Atomic Tests

Over the past six months Ellen and I have been involved with monitoring a growing controversy concerning troop manaevers at the site of atomic bomb tests in the 1950's. We have tried to facilitate the initiation and completion of scientific studies to determine if the participation of troops in these tests is related to an increased incidence of cancer. Ellen has prepared a report summarizing the current situation. (See attachment)

I have become increasingly concerned about the handling of this matter by DOD and the Department of Energy. They are clearly limiting their cooperation with the effort to conduct the studies. At first I thought this was simply out of embarrassment at having to explain why in the world they ever approved setting off an atomic test with troops in the area. Later it became clear that they were also concerned that the study by the Center for Disease Control might lead to new evidence about the effects of low levels of radiation exposure that could upset current standards and impact on military and civilian atomic energy programs. Last week my suspicion hit a peak when the Army major working on this project refused to state in an open hearing what his usual duties were.

I need advice as to how to proceed on this matter. I feel that I am on the edge of my jurisdiction because the primary actors involved are with DOD and DOE. I have not wanted to explore the reasons for the sensitivity of the Army because that sensitivity might extend to the Department of Defense itself.

In my opinion there is a need for a clear cut Administration policy on this matter. DOD and DOE should be instructed to cooperate to the greatest extent possible in identifying the people involved and performing examinations to determine if they have been adversely affected. We should also make clear to the Congress that we will support the provision of compensation to any individual found to have been adversely affected by participation in the tests. (Veterans benefits will cover most of this.) My problem is how to go about achieving this without ruffling bureaucratic feathers.

John Burke
President
Box 2735
Evergreen, Co.80439

Dorthy Legarreta Ph.D.
Administrative Director
78 El Camino Real
Berkley, CA. 94705

NATIONAL ASSOCIATION OF
RADIATION SURVIVORS

IN COOPERATION WITH

COLORADO ATOMIC-AGENT ORANGE VETERANS COALITION
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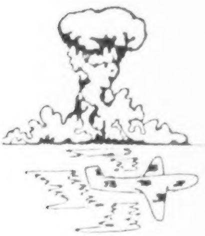

June 8, 1987

Mr. Paul S. Egan, Deputy Director
National Legislative Commission
The American Legion
1608 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Egan,

The National Association of Radiation Survivors and the Colorado Atomic/Agent Orange Veterans Coalition inc. wish to thank the American Legion for its statement and testimony before the Subcommittee on Compensation, pensions and insurance, committee on Veterans Affairs, U.S. House of Representatives on May 20, 1987. We would also like to thank you for your effort in forcing repeal of the "Warner Amendment".

H.R. 1811, S. 453 and S.1002 are a further step in the right direction, but it is our view that American Legion statement is a more workable compromise. We support the American Legion position.

Atomic Veterans and Agent Orange victims are being "inched" to death by slow legislation and Veterans Administration foot dragging. I am a veteran of WWII and Korean era, I was involved in the first nuclear weapons testing in 1946 "Operations Crossroads", at Bikini Atoll. I spent approximately five months aboard a radioactive ship.. The USS Bowditch AGS-4, after Test Baker. The Bowditch was in the radioactive waters of Bikini Lagoon longer than any other ship at Crossroads. The father of Gordon Erspamer, the young attorney of NARS vs. Veterans Administration fame, was in my division on the Bowditch. Lt. Jg. Ernest Erspamer died of leukemia in 1980. Two other officers in my division are seriously ill with ALS and thyroid cancer.

In 1954 I became disabled with Bulbar Polio and the V.A. said that I was 30% disabled, but not service connected. My age was 26. In 1970 I became 100% disabled at age 42. Since 1954 I have had the following medical problems: Hypothyroidism with 100 lb. body weight gain, ulcers, degenerative spine disease with osteo arthritis in spine, hip, knees and shoulders. Anemia, X-large tumor removed from colon, skin cancer, asthma, sinus fibrosis of lungs (non-smoker), Hypolipidemia, chronic liver disease, alcohol and drug rehab., chronic depression with suicide ideology, osteochondrosis of lumbar spine, Chronic Epstein-Barr Syndrome. Four years of treatment, inpatient and outpatient, at V.A. psychiatric unit. Seven major operations since 1970.

In 1983, after I was turned down by the B.V.A. on my radiation claim, I had a series of gentic tests done at University Hospital, Denver, Colorado and Roswell Cancer Research Center, Buffalo N.Y. Results: three chromosome aberration tests were done -- two of three tests showed abnormal defects. With this information in hand I sent a blood sample to Roswell Cancer Research Center to have a more indepth test done (Sister chromitid exchange test). This test shows how the genes are repairing or mis-repairing in the bone marrow on a long time basis. This test again was on the edge of abnormal, showing that bone marrow was not repairing itself A geneticist said that abnormal tests could have been caused by exposure to ionizing radiation.

This information along with a dose assessment based on chromosome aberrations has been submitted to DNA and V.A. My claim was filed in 1980 and as of this time I am not and will not be service connected. Another atomic veteran had his chromosome aberration test done in 1984. This test show he had a ring or dicentric chromosome. Government geneticist Dr. L. Gayle Littlefield of Oakridge, Tenn. says that the odds of a person who has not been exposed to ionizing radiation having a ring or dicentric chromosome are 2,000 to 1. The name of this veteran is AL Sanchez; he does not have cancer, but has diabetes, heart problems, degenerative spine disease, etc... The above references cases are not a scientific study, but point out

the need to abolish computerized dose assessments and give atomic veterans presumpti
All diseases known to man are not caused by radiation, but when veterans have a potpourri of diseases at a very early age and premature aging, one must wonder. We would like to have chromosome damage, premature aging and other degenerative disease and diseases associated with immune system deficiencies added to the list of service connecectable items.

Thanks and best wishes

John Burke-President NARS
Director CAAOVC

Box 2735
Evergreen, Colorado 80439

cc: Rep. Roy Rowland
423 Cannon Bldg.
Washington, DC 20515

Rep. Doug Applegate
Veterans Affairs Committee
335 Cannon Bldg.
Washington, DC 20515

Sen. Alan Cranscon
Veterans Affairs Committee
414 Russell Bldg.
Washington, DC 20510

P.S. I failed to mention another sign of premature aging found at age thirty-five, arteriolosclerosis and right bundle branch block. Genetic defects in the children of atomic veterans also should be studied.

INTERNATIONAL ALLIANCE OF ATOMIC VETERANS

IAAV

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June 30, 1987

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TESTIMONY OF THE INTERNATIONAL ALLIANCE OF ATOMIC VETERANS
BEFORE THE SENATE COMMITTEE
ON VETERANS AFFAIRS

June 30, 1987

By

E. Cooper Brown
Legislative Counsel

We would like, first of all, to thank Senator Cranston and the members of this Committee for your persistent efforts to resolve this most complex of issues. We appreciate this opportunity to testify and want to thank both Senators Cranston and Murkowski for taking the lead in introducing the Atomic Veteran bills now before this Committee. We also want to thank the various veterans service organizations, whose support has proven much needed and is most welcome.

Finally, we want to thank Senator Cranston and many of the members of this Committee for your continuing efforts to effect repeal of the "Warner Amendment." Our members consider it exceedingly important to recognize that reform of the V.A. compensation system is a matter separate and distinct from the obligations and responsibilities of private defense contractors engaged in past nuclear weapons testing programs. Consequently, the International Alliance strongly urges you to exercise your every power to restore the rights in court of Atomic Veterans and other radiation victims against these contractors.

Of the various bills that have been introduced this year on behalf of Atomic Veterans, the International Alliance of Atomic Veterans supports S. 1002, and urges its early passage. Particularly in light of last weeks ruling by the Ninth Circuit Court of Appeals in the Broudy case, in which the U.S. Government was absolved of any liability in court for actions arising out of the nuclear testing program, Congressional relief comes none too soon.

I must say that the response of the U.S. Government up until now has left very many Atomic Veterans frustrated and angry - with some going so far as to suggest that the current Administration as well as those before, with court and even Congressional acquiescence or complicity, have engaged in a massive coverup of this matter. They view the Warner Amendment, the Feres Doctrine, and the dismissal of suits such as that before the Ninth Circuit of last week - notwithstanding a lower court finding that the "evidence establishes beyond dispute that throughout the period [of nuclear testing] the Government had knowledge . . . of the nature and degree of the danger to test participants" - as part of an orchestrated effort to suppress the truth and frustrate justice.

I bring this up only so that this Committee will know that these sentiments are there, and so that you will understand the anger and frustration of these veterans and their widows when the only remaining recourse for justice is a V.A. system that has proven totally unresponsive to the claims of these individuals. I believe that what you are doing today - and the corrective measures that will surely follow - will allay much of this anger and demonstrate that justice will untimately be rendered.

I would like to now take a moment, if I might, to step "out of the woods" in order to get a better "look at the trees." In so doing, I hope to suggest where we all may have gone somewhat astray on the Atomic Veteran issue, and to suggest where we well may want to focus our collective energies once the current legislative proposals are behind us.

Where we have gone astray, I believe, is in allowing the Atomic Veteran issue to be viewed almost exclusively as a low-level radiation exposure problem. This has, among other things, resulted in V.A. claims of acknowledged high level exposure being denied because the Veterans Administration apparently felt it had no legislative authority for service connecting non-cancerous but radiogenic disorders. Indeed, in one case, that of Atomic Veteran Gene Curbow, his claim was dismissed notwithstanding support for his claim from the V.A.'s own medical experts!

It is certainly easy to understand how all of us have come to the conclusion that Atomic Veterans were exposed to only low levels of radiation. The Defense Nuclear Agency for years has told us that less than 5% of all Atomic Veterans were exposed to 5 rems or more of radiation. Indeed, it was not until the G.A.O. Report to Senator Cranston of November, 1985, that we learned for the first time that the 45,000 servicemen at "Operation Crossroads" in '46 had film badges that could only record up to 2 rems of exposure! Anything above that and the film badges were absolutely useless.

Yet throughout all these years - certainly the six years that I have been involved in this issue - we have continuously overlooked one of the most important shreds of evidence suggesting that a sizeable number (although certainly not all) of the veterans may well have been exposed to much higher levels of radiation. I am here referring to the innumerable personal accounts by the veterans of having seen the bones in their hands or of having experienced a "metallic" tast in their mouths at the time of the blasts. Many shortly after thir test participations experienced a loosening or loss of teeth, skin rashes or burns, vomiting, diarrhea, loss of hair that later grew back in, depression and, later, genetic problems in their offspring.

These are many of the same syptoms and disorders experienced by the Marshallese immediately following their removal from Rongelap Atoll in 1954, follwoing the "Bravo" test. These symptoms were experienced by people exposed, by the Government's own admission, to an average dose of 175 rems from that test's fallout. Thus, I believe that the veterans' personal accounts of their experiences during and immediately following their participation in the testing program should no longer be categorically dismissed as merely "anecdotal," but that they should be taken seriously and that we should act accordingly.

What then, you must surely ask, should we do beyond passing the legislation now before this Committeee and giving the veterans the benefit of the doubt for a particular number of radiogenic cancers. The I.A.A.V. suggests that we begin to focus on the question of high level radiation exposure, and that we do so through use of modern scientific technology:

In April of this year, Science Magazine reported that scientists have discovered among Japanese atomic bomb survivors a direct, linear relationship between the dose of radiation exposure and a specific genetic aberration found in their blood. In other words, as the result of a particular and only recently developed chromosome test, one can now clinically determine whether someone has been exposed to radiation. More importantly, by counting the number and extent of a particular type of chromosome aberration, one can also determine the dose of radiation to which the individual was exposed.

Thus, the International Alliance would strongly urge this Committee, in whatever legislation it finally adopts this year, to add an amendment authorizing appropriate, systematic chromosome testing of Atomic Veterans to determine whether and to what extent they may have been exposed to the levels of radiation to which the Marshallese and certain other radiation victims were exposed. This knowledge would assist us all in determining what, if any, remedial legislation will be required beyond what Congress passes in 1987.

Radiation
- Case

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1885
61120
1985
A Proud Beginning

May 1, 1986

Kenneth E. Eaton
Chairman, Board of Veterans Appeals
Veterans Administration
Washington, D.C. 20420

RE: GENE CURBOW
File no. 19 292 126

Dear Mr. Eaton:

At the request of Louis J. Kettel, M.D., I have reviewed the records of Gene Curbow.

You requested an independent medical opinion regarding the following question:

"Is it probable that the veteran's post service arteriosclerotic cardiovascular disease is etiologically associated with his exposure to a low level of ionizing radiation as a part of his 1954 nuclear test?"

In my opinion, based on the review of the records, and based on the present understanding of the pathogenesis of atherosclerosis, it is possible that Mr. Curbow's coronary atherosclerosis is etiologically associated with exposure to ionizing radiation during his participation in the 1954 nuclear test.

This conclusion is based on the following observations:

1. The amount of radiation received by Mr. Curbow is unknown. However, it was stated in his records that the recorded amount of radiation that he was exposed to was more than that of any other serviceman at the various atomic test sites.

2. There has been a change in our understanding of the pathogenesis of atherosclerosis. This change summarized in the article by Ross and associates "The role of endothelial injury and platelet and macrophage interactions in atherosclerosis", Circulation, Vol. 70, Suppl. 3, November 1984.

3. Atherosclerosis can be caused by or accelerated in susceptible individuals by anything that causes damage to the endothelial later of the coronary arteries. It is now appreciated that radiation can cause damage to the endothelial later of the coronary arteries.

4. There are an increasing number of reports of myocardial infarction and atherosclerosis in young people who have received radiation to the area of the heart. One pertinent reference is the one report by Brosius, Waller, and Roberts, in the American Journal of Medicine, 70:519, 1981.

Based on these observations, it is possible that Mr. Curbow's exposure contributed to his arteriosclerosis. Whether it was probable or not would relate to whether or not he had any other predisposing factors and this I could not determine from his voluminous chart. If he did not have predisposing factors such as a strong family history of coronary disease (myocardial infarction in males less than 55 or females less than 65), if he had no elevation of serum cholesterol, no smoking and no hypertension, then it would become more probable that Mr. Curbow's coronary atherosclerosis is etiologically related to his exposure as part of a 1954 nuclear test.

Sincerely,

Gordon A. Ewy, M.D.
Professor of Medicine
Chief, Section of Cardiology
University of Arizona College of Medicine
Director of Diagnostic Cardiology
University Medical Center

cc: Dean Louis Kettel, M.D.

This Week in SCIENCE

Genetic damage in atom bomb survivors

SURVIVORS of the atom bomb that was dropped on Hiroshima have a specific alteration in gene expression that reflects the dose of radiation they received (page 445). Glycophorin A (GPA) is found on the surface of red blood cells; mutations to GPA genes cause cells that should be heterozygous (having two kinds of GPA molecules) to instead be hemizygous (expressing only one kind of GPA). Langlois *et al.* used monoclonal antibodies to determine whether blood cells of survivors—those whose radiation exposures ranged from about 0.1 to 10 grays—were hemizygous or heterozygous for GPA. A linear relation between dose and frequency of variant red cells was found. The variant cells are apparently progeny of mutated precursors; the mutations appear to be stably integrated into the stem cells. This assay or similar mutagenesis assays may be of use for determining both the radiation exposure history of an individual and the person's likely health risks.

the prototype experiments).

18. O. P. Hamill, A. Marty, E. Neher, B. Sakmann, F. J. Sigworth, *Pflugers Arch* 391, 85 (1981); H. D. Lux and A. M. Brown, *J. Gen. Physiol.* 83, 727 (1984); D. L. Wilson and A. M. Brown, *IEEE Trans. Physiol.* 83, 727 (1984); D. L. Wilson and A. M. Brown, *IEEE Trans. Biomed. Eng.* 32, 786 (1985).
19. A. Noma, *Nature (London)* 305, 147 (1983).

20. Supported in part by NIH grants DK-19318, HD-09581, HL-31154, DK-27685 (L.B.), and HL-36930 and HL-37044 (A.M.B.) and by American Heart Association grant 851159 (A.Y.).

24 February 1987; accepted 23 March 1987

Evidence for Increased Somatic Cell Mutations at the Glycophorin A Locus in Atomic Bomb Survivors

RICHARD G. LANGLOIS, WILLIAM L. BIGBEE, SEISHI KYOIZUMI, NORI NAKAMURA, MICHAEL A. BEAN, MITOSHI AKIYAMA, RONALD H. JENSEN*

A recently developed assay for somatic cell mutations was used to study survivors of the atomic bomb at Hiroshima. This assay measures the frequency of variant erythrocytes produced by erythroid precursor cells with mutations that result in a loss of gene expression at the polymorphic glycophorin A (GPA) locus. Significant linear relations between variant frequency (VF) and radiation exposure were observed for three different variant cell phenotypes. The spontaneous and induced VFs agree with previous measurements of radiation-induced mutagenesis in other systems; this evidence supports a mutational origin for variant cells characterized by a loss of GPA expression and suggests that the GPA assay system may provide a cumulative dosimeter of past radiation exposures. VFs for some survivors differ dramatically from the calculated dose response, and these deviations appear to result primarily from statistical fluctuations in the number of mutations in the stem-cell pool. These fluctuations allow one to estimate the number of long-lived hemopoietic stem cells in humans.

THERE IS CONTINUING INTEREST IN evaluating the long-term health effects of human exposure to ionizing radiation (*1*) and in developing methods for assessing genetic damage in exposed individuals. The survivors of the atomic bombs at Hiroshima and Nagasaki provide a population particularly well suited for quantitative studies of this type. Researchers at the Radiation Effects Research Foundation (RERF) in Japan are accumulating extensive clinical and experimental data on large numbers of exposed and control survivors and their progeny (*2*). The exposure history of survivors is relatively well defined; dose estimates are available for individual survivors, and their exposure is dominated by a single, acute, whole-body, radiation dose. Previous studies of chromosome aberrations have revealed persistent genetic damage in somatic cells of these individuals (*3*). This study of specific locus mutations in somatic cells should further enhance our understanding of radiation-induced health effects.

The present study uses a newly developed specific locus mutation assay to detect the loss of gene expression at the glycophorin A locus in human somatic cells (*4*). Glycophorin A (GPA), a cell-surface glycoprotein on erythrocytes, occurs in two allelic forms, M and N, and is the product of codominantly expressed alleles on chromosome 4. In the GPA expression-loss assay, pairs of monoclonal antibodies specific for individual allelic forms are each conjugated with a different fluorescent dye and used to label fixed erythrocytes from heterozygous MN donors. Flow cytometry and sorting are used to enumerate and purify rare, single-color cells that lack the expression of one of the two GPA alleles. Presumably these cells lack expression because they are progeny of mutated erythroid precursor cells. Two of three previously described assay systems [1W1 and 2W2 (*4*)] were used in this study to determine the frequency of four variant cell types: those that lack the M-form of GPA (hemizygous NO and homozygous NN variants) and those that lack the N-form of GPA (MO and MM variants).

Blood samples were obtained from heterozygous MN donors in the RERF Adult Health Study and from a standard donor. One cohort of 43 donors (exposed) was composed of Hiroshima A-bomb survivors with revised tentative 1965 radiation dose estimates (T65DR) (5) ranging from 14 to 884 cGy (1 cGy = 1 rad). Repeat samples were obtained from 27 of these donors. A second cohort of 20 donors (control), with age and sex ratio similar to the exposed cohort, was composed of Hiroshima survivors with T65DR dose estimates of less than 1 cGy, with repeat samples from 10 donors. The standard donor (standard), a 29-year-old Japanese volunteer, was sampled 27 times during the study to monitor assay reproducibility. All samples were coded and then analyzed blind within 2 weeks of collection.

Variant frequencies (VFs) from all measurements for both assay systems are shown in Fig. 1; the mean VFs for each cohort are given in Table 1. Consistently low VFs were observed for three of the four variant cell types (NO, MO, and MM) in samples from the standard and control donors. The mean VFs for these donors ranged from 7×10^{-6} to 15×10^{-6}, which agreed with previously determined values of 9×10^{-6} to 21×10^{-6} for normal donors (*4*). From multiple measurements of the standard donor and replicate measurements on repeat blood samples from control and exposed donors, we determined a measurement coefficient of variation (CV) of about 60%, which was also comparable to previous estimates. The scattered VFs for NN variants were probably caused by staining artifacts previously described for this cell type (*4*).

Among the exposed donors, VFs of the NO, MO, and MM cell types varied widely from control levels to a maximum of 1312×10^{-6}. We confirmed the significance of the differences between the control and exposed donors with the nonparametric Mann-Whitney test (*6*) (Table 1). The mean frequencies of NO and MO variants were similar for the exposed donors, data that suggest that radiation-induced loss of GPA expression occurs at comparable frequencies for both the M and N alleles. The elevated VF of MM variants in exposed donors suggests that radiation induces events that lead to homozygosity [for example, chromosome missegregation or mitotic recombination (*4*)], although these events appear to be induced at a lower level than gene-loss events. Radiation-induced missegregation or recombination events have been reported for yeast (*7*), *Drosophila* (*8*), and mammalian cells (*9, 10*).

To relate GPA-assayed VFs to each individual's estimated dose, we assumed that T65DR doses approximate bone marrow doses since current revisions in exposure and organ doses are not yet available (*11*). Because the data set is too small to allow a rigorous test of a linear versus quadratic dose response, we also assumed a linear

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Table 1. Frequencies of four variant cell phenotypes for the three donor types. Standard donor (S), control cohort (C), and exposed cohort (E).

Variant cell type	Variant frequency* ($\times 10^{-6}$) S	C	E	b† ($\times 10^{-6}$ per cGy)	P‡
NO	9	15	78	0.26	0.001
MO	7	9	63	0.23	0.001
MM	9	9	32	0.10	0.004
NN	28	64	69	—	0.43

*Mean variant frequencies of all donors in each population for each end point. The mean dose for the exposed population was 240 cGy (T65DR dose estimates). †Mean frequency of induced variant cells per centigray for each end point, b = (exposed − control)/240 cGy. ‡Probabilities based on the Mann-Whitney nonparametric test that the VF of the exposed cohort is higher than that of the control cohort.

increase of VF with dose (D) such that ($VF = a + bD$). While dose-response shapes vary among cell types and exposure conditions, linear models have been reported for radiation-induced mutations in a number of other systems (*12–14*). We performed separate linear regressions of VF versus dose for each of the three cell types NO, MO, and MM, and all three showed significant positive relations with dose [slope (± SE) $b = 0.18$ (± 0.10), 0.16 (± 0.06), and 0.08 (± 0.04) $\times 10^{-6}$/cGy; significance of the regression $P = 0.037$, 0.005, and 0.024, respectively (*15*)].

To simplify the analysis and reduce the effects of measurement errors, we calculated a mean hemizygous VF for each donor using VFs from replicate blood samples. Mean values included both NO and MO VFs since the two cell types showed similar spontaneous and induced frequencies. Figure 2a shows hemizygous VFs for the control and exposed donors. Whereas there was a highly significant relation with dose ($P = 0.004$) and most points clustered around the linear regression line, some individual values differed substantially from the calculated fit. These outlying values will be discussed below.

Previous studies of chromosome aberrations in A-bomb survivors also showed considerable scatter in aberration frequencies for individual donors, but these studies indicated a clear dose response when average frequencies were calculated for groups of donors in different dose intervals (*3*). A similar grouping of the data for exposed donors, with the mean VF and dose plotted for each group, is shown (Fig. 2b). The grouped data fit remarkably well with a linear regression, supporting a linear dose-response model for the exposed population. The linear-fit parameters for hemizygous variants reported in Table 1 and Fig. 2 agree to within about a factor of 2 (spontaneous VF, $a = 9 \times 10^{-6}$ to 23×10^{-6}; and induced VF per centigray, $b = 0.15 \times 10^{-6}$ to 0.26×10^{-6}).

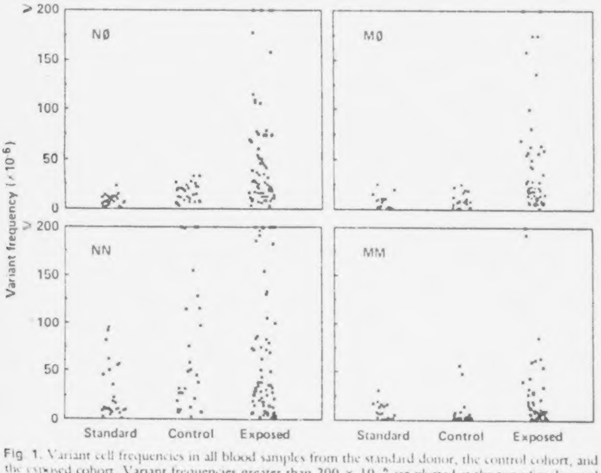

Fig. 1. Variant cell frequencies in all blood samples from the standard donor, the control cohort, and the exposed cohort. Variant frequencies greater than 200×10^{-6} are plotted at the top of each panel and include values from 225×10^{-6} to 1312×10^{-6}.

Table 2. Replicate analyses on selected excepal donors.

Donor No.	T65DR (cGy)	Observed VF* ($\times 10^{-6}$) NO	MO	Expected VF† ($\times 10^{-6}$)
72	173	478	42	53
		882	60	
77	388	16	175	100
		13	175	
29	463	1312	251	117
		1045	65	
60	672	34	44	163
		13	22	
30	884	17	ND	209
		14	15	

*For each donor, the top row contains results from the initial blood sample, whereas the second row contains results from a replicate blood sample; ND indicates not done. Time intervals between the two samples for each donor (from top to bottom): 3, 1, 7, 1, and 8 months. †Variant frequencies calculated from the T65DR dose with the linear fit parameters in Fig. 2b.

There is extensive documentation of radiation-induced specific locus mutations in cultured mammalian cells (*9, 12, 14, 16*), in somatic cells in mice and humans (*17*), and in mouse germ cells (*12, 13, 18*). Most of these data can be fit to a linear dose response with spontaneous frequencies of $a = 2 \times 10^{-6}$ to 30×10^{-6} and induced frequencies per centigray of $b = 0.06 \times 10^{-6}$ to 0.66×10^{-6}. Thus, the similarity in fit parameters between these other systems and the GPA assay system 40 years after exposure supports a mutational origin for GPA variants, and suggests that the mutational lesions must be stably integrated in hemopoietic stem cells with no selective disadvantage for mutant cells. Persistent cytogenetic lesions have also been observed in hemopoietic stem cells of A-bomb survivors (*19*). In contrast to GPA variants and cytogenetic lesions, there appears to be an in vivo selective disadvantage for lymphocytes lacking hypoxanthine phosphoribosyltransferase activity ($HPRT^-$ lymphocytes) (*20*), and this may explain the small increase reported for $HPRT^-$ lymphocytes in A-bomb survivors (*21*).

Since other studies of genetic damage and health risk in A-bomb survivors generally involve pools of donors, comparisons with present results can best be made from ratios of values for high-dose pools (T65DR > 400 cGy, mean ~ 600 cGy) to values for low-dose pools (T65DR dose < 1 cGy). The 13-fold increase we have observed in GPA variants is similar to the 14-fold increase previously reported for exchange-type chromosome aberrations (*3*). Although increased risk for cancer in A-bomb survivors varies with time since exposure, cumulative mortality data from 1950 to 1984 show increased relative risks of 16-fold for leukemia, 4-fold for breast and colon cancer, 2-fold for stomach and respiratory cancer, and 2-fold for all cancers other than leukemia (22). Thus, although risks differ in each case, relative increases in risk are generally similar in magnitude to relative increases in the frequency of chromosome aberrations and GPA expression–loss variants.

Although the VFs of most donors are consistent with a linear dose response, the values for some exposed donors differ dramatically from those predicted by the linear fit in Fig. 2a. Even though the limited precision of this assay (pooled CV = 60%) might explain the scatter at low doses, it is unlikely that measurement errors are responsible for the large deviations consistently observed in some donors. The results in Table 2 illustrate the size and reproducibility of these deviations from expected values. These exceptional donors appear to fall into two categories. For moderate-dose donors (170 to 500 cGy) large fluctuations in VFs were seen among donors with similar exposures and between alleles in individual donors, while for high-dose donors (> 500 cGy) uniformly low VFs were observed (Table 2 and Fig. 2a).

Since M-loss and N-loss events are two similar but genetically independent end points, a comparison between MØ and NØ frequencies for individual donors may explain these unexpected VFs. A donor's MØ frequency should equal his NØ frequency, but both frequencies will differ from the expected value if (i) the donor's exposure history differs from his T65DR dose, or (ii) he is unusually susceptible to radiation damage. This explanation is clearly not compatible with the large differences in VF between alleles in moderate-dose donors. Although this explanation could account for the uniformly low VFs in high-dose donors, it seems unlikely that doses were overestimated for all of these donors.

A second explanation is that large deviations from expected values result from statistical fluctuations, such as Poisson uncertainty in the number of induced mutations recorded in a limited number of stem cells or uncertainty in the number of mutations expressed by a limited number of stem cells that are contributing to the erythrocyte pool at any given time. In this case MØ and NØ frequencies would not be correlated for a given donor, and, if expression fluctuations dominate, then both frequencies could vary with time. Moderate-dose donors show large and reproducible differences between NØ and MØ frequencies that are consistent with Poisson fluctuations in the recording of induced mutations. Time-dependent expression fluctuations appear to be less important, as results from initial and replicate blood samples were highly correlated [slope (± SE) 1.01 (± 0.08), $P < 0.001$; typical sampling interval, 2 to 3 months]. Even exceptional VFs persisted for up to 8 months (Table 2).

Poisson fluctuations alone, however, do not explain the consistently low VFs of both alleles in high-dose donors. One additional factor may clarify the response of the GPA assay for all exposure groups. It has been shown that the number of surviving hemopoietic stem cells decreases exponentially with radiation dose [$N/N_0 = e^{-D/100}$; where N/N_0 is the fraction of surviving cells and D is dose in centigrays (*23*)] so that high-dose exposures could dramatically reduce the number of stem cells available for recording induced mutations. We have modeled the effect of stem-cell kill on the recording of induced mutations at specific doses by estimating the number of long-lived stem cells in normal donors, and then calculating (i) the number of surviving stem cells (from the equation above), (ii) the induced VF for mutations (from the fit parameters in Fig. 2b), and (iii) the number of induced mutations per donor [the product of (i) and (ii)]. To be consistent with our observations, this model requires a long-lived stem-cell pool size in the range of 10^6 to 10^7 for a normal individual. Whereas this estimate is somewhat low compared to estimates based on colony-formation assays (*24*), only a small fraction of colony-forming cells may have sufficient self-renewal potential to continue to contribute to the erythrocyte pool after 40 years (*25*).

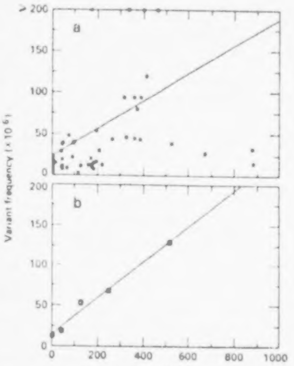

Fig. 2. Plots of hemizygous variant frequency (VF) versus T65DR dose for control and exposed donors. The VF calculated for each donor is the mean value of all NØ and MØ measurements performed on that donor. (**a**) Individual variant frequencies for all control and exposed donors. VFs greater than 200 are plotted at the top of the panel. These VFs are ($\times 10^{-6}$) 336, 330, 244, and 668 (from low to high dose). The line corresponds to a linear regression on these data yielding the following fit parameters (± SE): $a = 23$ $(\pm 16) \times 10^{-6}$, $b = 0.17$ $(\pm 0.06) \times 10^{-6}$/cGy; significance of the regression, $P = 0.004$. A linear fit neglecting the four values on the top and the four highest dose values yielded similar fit parameters [$a = 10$ $(\pm 3) \times 10^{-6}$, $b = 0.15$ $(\pm 0.02) \times 10^{-6}$/cGy; $P < 0.001$] which show that the fit is not dominated by outlying values. (**b**) Variant frequencies of pooled groups of control and exposed donors. Exposed donors were divided into four equal sized subgroups (each containing 10 or 11 donors) on the basis of estimated exposure. The dose intervals resulting from this grouping were 14–62, 69–174, 180–359, and 361–884 cGy. Control donors made up a fifth, zero dose group. Each point corresponds to the mean hemizygous VF and the mean dose for each group. The line corresponds to a linear regression on these data yielding the following fit parameters: $a = 15$ $(\pm 4) \times 10^{-6}$, $b = 0.22$ $(\pm 0.02) \times 10^{-6}$/cGy; $P < 0.001$.

A low-dose exposure of 50 cGy would produce minimal cell kill and induce a VF of about 10×10^{-6}. The number of stem-cell mutations per donor would be 10 to 100, so Poisson fluctuations would be relatively unimportant. An exposure to 400 cGy would reduce the stem-cell pool to about 10^4 to 10^5 cells, and induce a VF of 100×10^{-6}. At this dose, the number of mutations per donor would be 1 to 10, so significant Poisson fluctuations would be expected among donors and between alleles. Also, the magnitude of these statistical fluctuations would be large because each additional mutation in a stem-cell pool of this size would increase the VF by 10×10^{-6} to 100×10^{-6}. An exposure of 800 cGy would reduce the stem-cell pool to about 10^2 to 10^3 cells, so that even with an expected VF of 200×10^{-6}, no mutations would be recorded in most individuals. Thus our model provides an explanation for the large fluctuations in VF observed for moderate-dose donors and for the consistently low VFs seen for high-dose donors.

Ultimately, the usefulness of the GPA expression loss assay for determining the exposure history or health risk of individual donors will depend on the precision and stability with which rare mutational lesions are recorded in a finite number of stem cells. This analysis of data from A-bomb survivors shows that VFs can differ substantially from expected values among people who received large acute radiation exposures. This presumably is a result of statistical recording fluctuations in the small number of surviving stem cells. Our model suggests that statistical fluctuations should be less significant for low-dose or chronic exposures because of minimal perturbation of the stem-cell pool size. These fluctuations could also be less significant for assays performed a short time after exposure since the target pool might contain short-lived erythroid precursors as well as stem cells. It should be possible to determine the significance of statistical factors directly by quantitative comparisons of MØ and NØ frequencies in donors with different exposure histories.

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3 November 1986; accepted 18 March 1987

Cells in Temporal Cortex of Conscious Sheep Can Respond Preferentially to the Sight of Faces

K. M. KENDRICK AND B. A. BALDWIN

To investigate whether the temporal cortex of a nonprimate species contains cells responsive to the sight of faces, a study was made in conscious sheep of the responses of neurons in this brain region to the sight of faces. Of 561 cells from which responses were recorded, 40 responded preferentially to faces. Different categories of these cells were influenced by dominance (presumably indicated by the presence and size of horns), breed and familiarity, and threatening faces such as those of humans and dogs. These results demonstrate that cells that respond preferentially to faces are present in the temporal cortex of a nonprimate species, and that the responses of these cells are influenced by factors relevant to social interaction.

IN MONKEYS, A REGION OF THE TEMPORAL lobe contains some cells that respond preferentially to monkey and human faces (*1*). These cells also respond selectively to specific faces (*2*) or facial expressions (*3*). Damage to this region is associated with social disturbance, including reduced aggression (*4*), impaired visual discrimination (*5*), and in humans facial recognition may be impaired (*6*). In primates, therefore, this region of the brain is thought to play a role in individual recognition and appropriate social behavior, although its function in nonprimate species is unknown.

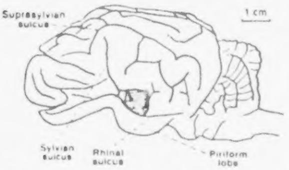

Fig. 1. Schematic drawing of a sagittal view of a sheep brain showing the location (shaded area) of cells that responded to the sight of faces.

Relatively little electrophysiological work has been done on the visual system of sheep but it has been shown, in anesthetized animals, that cells in their visual cortex respond to visual stimuli in the same way as similarly located cells in primates (*7*). As in primates, facial recognition is socially important to sheep since the face conveys breed and individual identity. Sheep prefer to interact socially with members of their own breed (*8*), and ewes visually recognize their own lambs by their faces rather than by other body features (*9*). Also, in horned sheep (*10*), and other horned ungulates (*11*), the size of the horns conveys information on both gender and position in the dominance hierarchy. The present study provides the first demonstration that cells showing preferential responses to the sight of facial stimuli are present in the sheep's temporal cortex. Further, different categories of these cells are distinguished by their responsiveness to dominance (the presence and size of horns), breed, familiarity, and stimuli associated with potential threat, such as humans and dogs.

Five Dalesbred sheep (a horned breed) were used. The methods for conscious single-unit electrophysiological recordings were as previously described (*12*) except that the temporal cortex was the brain region investigated. Recordings were made with the animals conscious and comfortably suspended in a canvas hammock. Head movement was prevented by anchoring the insensitive portion of the sheep's horns to the frame of the hammock. By means of a slide projector, visual stimuli were present binocularly with the use of a back-projection screen (0.6 m wide and 0.4 m high) placed with its center at eye level, 1 m directly in front of the animal. Approximately life-size stimuli were presented for 5 seconds, either stationary or slowly oscillating (0.2 Hz) horizontally. Although eye movements were not monitored the screen was positioned so that the stimuli fell on the area centralis of each eye when the sheep was looking forward. Since stimuli were presented in the dark, the screen represented the only major area of visual change for the animal and thus it probably focused on this for most of the

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STATEMENT OF DR. VICTOR F. ARCHER
BEFORE THE SENATE COMMITTEE ON VETERAN'S AFFAIRS HEARING
JUNE 30, 1987

I have reviewed S. 1002 and S. 453 and comments on these bills as they appear in the Congressional Record. As a scientist who has spent a number of years studying the effects of low-level radiation exposure on man, I have a few comments which may be of value to you and your colleagues in the consideration of these bills.

In general, I agree with the approach taken by S. 1002 and S. 453. They both take the approach that all specified veterans who develop the type of cancers most clearly associated with nuclear explosions and fallout be compensated, and that other types of cancers be judged on a more stringent basis and given less compensation. There is some scientific basis for this approach.

I agree with the premise of the two bills that there is a strong likelihood that some atomic veterans have developed cancer as a result of their military exposures. I would also agree with the Veterans' Administration that in view of the low exposures reported by DNA, there would be very few veterans whose estimated exposure would give them a greater than 50% risk of developing cancer as a result of that exposure.

We know, however, that the risk of developing radiation induced cancer does not disappear at any definable exposure level. The frequency of that cancer among a population just becomes decreased as a result of decreasing exposures. At the lower levels of exposure, therefore, it becomes increasingly difficult to sort out those cancers which were caused by radiation from those which were not. Thyroid cancer and leukemia (except for chronic lymphoid types) are two relatively rare cancers which are most strongly associated with radiation. The fraction of thyroid cancers and leukemias (except for chronic lymphoid types) among veterans, which are the result of radiation, is almost certainly higher than the similar fraction for other types of malignant disease. I therefore, agree that it is reasonable to give disability or death benefits to all the specified veterans who develop these two types of malignancy. An unknown fraction of them will not be the result of radiation, of course, but this is still a reasonable approach which is feasible, as both of these malignancies are relatively rare in the general population. With respect to leukemia, however, an exception should be made for chronic lymphatic leukemia as it is the most common type of chronic leukemia among the general population, and the least likely to be associated with radiation. It should be included in the third category of malignant diseases (lung, rectum, etc.) specified in S. 1002 as deserving "special consideration" in the processing of claims.

The thirty-year cutoff for compensation for leukemia is reasonable in view of the fact that after 30 years, most radiation induced leukemias have already appeared, and few will appear after that time.

The provision for the 5-year latency period for other types of cancer is reasonable. Some argument could be made that it should be 10 years instead of 5, but the use of 5 gives veterans the benefit of the doubt.

The use of 1 rem as a cutoff for compensation for the second class of cancers (colon, stomach, etc.) is obviously an arbitrary cutoff to eliminate those veterans who have had negligible radiation exposure. Such a cutoff is obviously needed to eliminate those veterans whose risk from radiation exposure is extremely low. However, a good argument could be made that this level should be set as high as 5 rem. Since 5 rem has been the annual permissible level used for radiation workers for many years, it seems resonable to apply that standard to military exposures. This does not mean that it is entirely safe, of course, but the cancer risk associated with it is small enough so that it is acceptable to our society. An additional reason for setting this limit at 5 rem is the revision proposed for DNA radiation exposure estimates. This proposed revision would put most of the atomic veterans over the 1 rem limit, and as a result, few of the minimally exposed would be excluded.

The DNA estimates of radiation exposures to the veterans appears to be the best that can be done, and the Committee is on sound ground when it considers that those estimates are generally low. The proposed method of arbitrarily increasing them by specified amounts as in S. 1002 is better than the arbitrary doubling proposed in S. 453. I think the method proposed in S. 1002 is the most reasonable I have heard.

The treatment of liver cancer in S. 1002 is much better than the treatment given it in S. 453. The "cancer of the bone marrow" term used in S. 453 is not a good designation. The specification of multiple myeloma, etc. used in S. 1002 is much better.

The awarding of 50% compensation to qualified veterans with certain types of cancer is a recognition that these types of cancers may have been caused by the radiation exposure, but the likelihood of its happening in any given case is quite small -- considerably smaller than for thyroid cancer or most leukemias.

The 50% compensation recognizes that the government has a small but very uncertain responsibility in these cases. This seems to be a reasonable compromise between doing nothing for them and overcompensation.

As recognized by Mr. Simon in his comments on S. 1002 on April 9, this bill makes no provision for birth defects. We know, of course, that ionizing radiation can cause birth defects, but as a result of studying the progeny of Japanese A-bomb survivors, we are reasonably sure that this risk is less than the cancer risk. It would also be more difficult to legislative equitable compensation. I would, therefore, agree that birth defects should be omitted from these bills.

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July 13, 1987

Sen. Cranston, Sen. Murkowski and colleagues

Dear Sirs:

You are brave and enduring people.

You have finally gotten medical care and hospitalization started for irradiated veterans. You have gotten the GAO to take a careful look at the grossly unscientific basis of "scientific dose reconstruction." And now you propose to rectify the obvious injustice of denying this small group of veterans, or their widows and families, any service connection or compensation for their illnesses.

We thank you for your courage and your strong sense of plain old American justice.

I was unable to attend the hearings on S.453 and S.1002 because notice and the bills arrived up here in the sticks too late for me to come.

Please let me add these brief comments for the record:

1. I believe the list of illnesses given in S.453 is far too restrictive. The V.A. itself prepared a quite good list in 1986, then let it lapse. Publications out of Japan, the Univ. of Wisconsin, from England etc., suggest a wider range of presumptive radiogenic diseases, including:

Leukemias of various kinds (excl. chron. lymphatic)
Thyroid cancers
Breast cancer
Lung cancer
Brain cancer
G.I. cancers (from salivary glands to colon and rectum)
Kidney, bladder, and prostatic cancers
Multiple myleoma
Lymphoma (excl. Hodgkins)
Skin cancer (incl. malignant melanoma)
Liver cancer
Probably polycythemia vera and cancer of the ovaries and testes

The question for the Committee is where to start? How much to include? Your experts will honestly differ. There are many experts, but two stand out above all others by virtue of their half-century of training and experience: You know them: Dr. Karl Z. Morgan, and Dr. John Gofman. I hope you have consulted them.

II. In favor of being a little generous, after so many years of official neglect, is this:

- There are not many radiation veterans left. A few thousand only have put in claims.

- These are proud, patriotic humble American service men. They would never try to put the sting on their country; they only want the recognition of their service and consequent disabilities exactly as it is recognized for all other veterans.

- A great deal about radiation effects is not known. Like AIDS, it changes or destroys the very molecules of life and the life-preserving defenses within the DNA. Therefore the injury may be slow to emerge, secret for a long time, and - until we know much more - rather mysterious.

I say that if we have sick and dying veterans, we should take care of them. If we have desperate impoverished widows, we should help them. No point to ask them to spend their last meager savings trying to prove to the V.A. what everyone knows they cannot prove.

III. Giving the V.A. the right to assign the "probable dose" received by any one applicant maybe necessary, but that crucial right should be balanced by the corresponding right of the individual to challenge the evidence, appeal the decision, if necessary seek redress in the courts.

IV. As for "Scientific Dose Reconstruction" - at least for the Crossroads veterans - it can only be a flimsy subterfuge, a fraud.

- radiation was much greater than expected. It shut down Operation Crossroads 2 weeks after the underwater test.

- the equipment effectively measured only one of six kinds of radiation (external gammas.) The worst danger - inhalation of radioactive particles - could not be tested for.

- there were very few individual film badges.

- large numbers of badges and records have been lost or destroyed.

- the blood tests and urinalyses were clearly meaningless.

- there was no attempt at a medical follow-up of these exposed servicemen.

What folly then to ask the sick veteran to prove what he can never prove. Instead, ask the V.A. or the DOD to prove that their dose reconstruction is scientifically accurate in each case of denied compensation.

I pray that before all these veterans have died, carrying with them their pains, their anger, their abused patriotism, this honorable Senate will give them their small share of American justice.

David Bradley, MD

STATEMENT OF

DR. ROBERT PETER GALE, ASSOCIATE PROFESSOR OF MEDICINE
TRANSPLANTATION BIOLOGY PROGRAM, DIVISION OF HEMATOLOGY/ONCOLOGY
UNIVERSITY OF CALIFORNIA AT LOS ANGELES, SCHOOL OF MEDICINE
CENTER FOR THE HEALTH SCIENCES

BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS

WITH RESPECT TO
S. 1002

WASHINGTON, D.C. JUNE 30, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to comment on the proposed legislation S. 1002 relating to providing benefits for members of the armed services potentially exposed to radiation. Since I will not be able to attend your hearing on June 30 I hope the enclosed comments will be of help in your evaluation of this legislation.

Generally, I favor the concepts embodied in the proposed legislation S. 1002. Undoubtedly, there is an association between exposure to ionizing radiation and the induction of cancer. There is also little doubt that many of the individuals in the armed services defined in this legislation were exposed to ionizing radiation. The major problem facing the issues raised is that of assigning causality. In my opinion the high spontaneous rate of cancer in our society and the impossibility of defining the specific radiation dose for each of the exposed individuals leads to a situation where it will never be possible to prove beyond a doubt that any individual's cancer was caused by radiation exposure. Traversely, however, one cannot prove an individual's cancer was not induced by radiation exposure. It is therefore necessary to seek a reasonable compromise. I believe that the proposed legislation does so. It assigns the highest probability of cancer induction to a group of cancers known to have a high association with radiation exposure. It assigns an intermediate risk to a second group, a low risk to a third group. This is then matched by the comparable level of compensation based upon the level of probability of causality.

In my opinion, the plan proposed in S. 1002 is superior to a binary system where cancers would be divided into those caused or not caused by radiation. The latter fails to consider scientific data that a relationship between radiation exposure and the likelihood of cancer causation is a continuous variable.

In summary, I commend you on your attempts to find a fair, reasonable solution to what is not only a scientific, but also a moral and societal problem. Please advise me if I can be of any further assistance to you or to any members of the Senate Committee on Veterans' Affairs.

Mr. Chairman, this concludes my statement for this hearing.

STATEMENT OF KENNETH L. MOSSMAN, PROFESSOR
GEORGETOWN UNIVERSITY
BEFORE COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

June 30, 1987

Thank you, Mr. Chairman, for giving me the opportunity to address the Senate Committee on Veterans' Affairs on the issue of compensation of veterans exposed to ionizing radiation through participation in the United States Government's Nuclear Weapons Testing Program or the American Occupation of Hiroshima or Nagasaki, Japan. Currently, I serve as Professor and Chairman of the Department of Radiation Science, Georgetown University in Washington, DC. My area of expertise is radiobiology and health physics. Specifically I am interested in the biological effects and public health effects of ionizing radiation exposures. I have over 60 publications on topics ranging from high dose radiation effects associated with the radiotherapy of cancer to cancer induction from environmental levels of radiation. I received my doctorate in radiobiology from the University of Tennessee in 1973. Since graduation, I have served on the faculty of Georgetown University. If you wish, I will be happy to provide a copy of my complete curriculum vitae for the record.

My purpose in being here today is to discuss relevant radiobiologic issues which are pertinent to the development and implementation of a program to fairly compensate veterans who have been exposed to ionizing radiations in the line of duty and who have, or may subsequently develop, cancers which may have been caused, or alleged to have been caused, by such radiation exposures. The staff of the Committee on Veterans Affairs' has asked me tc specifically review S.453 (Veterans' Ionizing Radiation Compensation Improvements Act of 1987) and S.1002 (Veterans' Radiation

Exposure Disability and Death Benefits Act of 1987). Before doing so, I think it would be useful to briefly discuss what it is that we know, and don't know, about cancer induced by ionizing radiation.

Based on a large body of laboratory animal and human radiation exposure data, a number of generalizations can be made about radiation carcinogenesis:

1. Radiation-induced cancers are indistinguishable from naturally occurring cancers.

Because radiation-induced cancers are indistinguishable from naturally occurring cancers, it is impossible to show, in individual cases, that a particular cancer was radiation induced. Radiation-induced cancers can only be inferred by studying large populations of exposed individuals and comparing the specific cancer incidence in the exposed population with that in an appropriate control population. Causation is probabilistic. Although there is ample evidence that radiation causes cancer in man and laboratory animals, the mechanism(s) of radiation carcinogenesis remains speculative.

2. Radiation-induced cancers appear in almost every tissue of the body.

Almost all of the human cancers can be induced by ionizing radiation. However, chronic lymphocytic leukemia, Hodgkin's disease, cancer of the prostate, cancer of the uterus and cervix, cancer of the testis, and cancer of the mesothelium and mesentary appear to be exceptions. It is unclear why these particular cancers are not induced by radiation exposure yet other cancers such as female breast, thyroid, and lung can be induced by radiation.

3. Sensitity to radiation carcinogenesis varies considerably among different tissue and organs.

Among the numerous tissues and organs known to be susceptible to radiation-induced carcinogenesis, there is a wide range of sensitivities. The type of cancers with the highest sensitivity to radiation induction are female breast, thyroid, and leukemias (especially myeloid leukemia); cancers with moderate sensitivity include lymphomas (excluding Hodgkin's disease), lung, colon, liver and biliary tract, pharynx, and pancreas; and cancers with low sensitivity include kidney, bone, skin, brain, and salivary glands. Why organs and tissues vary in this sensitivity is not known. Apparently the sensitivity to radiation induction is unrelated to the spontaneous incidence for most cancers. For instance, thyroid cancer has a low spontaneous incidence but a very high radiation sensitivity; skin cancer has a high spontaneous incidence but a low radiation sensitivity; prostate cancer has a very high spontaneous incidence and apparently cannot be induced by ionizing radiation. Female breast cancer is an example of a human cancer with a high spontaneous incidence and a high radiation sensitivity.

4. Cancer induction by radiation has a long latent period.

A characteristic of radiation-induced cancer is a long period of time between the radiation exposure and the appearance of the cancer. This time, which may be decades for some tumors, is referred to as the latent period. It is unclear whether the latent period represents an "induction" period in which the "transformed" cells prepare to divide and form a tumor or represent a "development" in which the tumor assumes characteristics of a maligancy involving growth and spread, or a combination of these. Latent periods are different for tumors. The leukemias have the shortest mean latent period (5-10 years). For solid tumors, such as lung cancer, the mean latent period appears to be 20-30 years. The mean latency and the distribution of latent period in an irradiated population for a given tumor may depend on several factors including age and size of the radiation dose. The characteristic long latent period in radiation carcinogenesis complicates the study of cancer induction by radiation, especially at low doses. Before the radiation exposure and during the long latent period, irradiated individuals may be exposed to other carcinogens and other disease processes which can compound the analysis of the epidemiologic data, and the individual.

5. Age, sex, and other factors may contribute to cancer induction.

Various host factors may contribute to cancer induction by radiation. Breast cancer occurs almost exclusively in women, and radiation induced thyroid cancer may be 2-4 times more prevelant in females. The incidence of radiation-induced human breast and thyroid cancer is such that the total cancer risk is greater for females than for males. Radiation-induced leukemias are apparently slightly more prevelant in males that females but for all other radiation-induced cancers not mentioned above, the radiation risk for the two sexes appears to be the same. Age is also an important factor for radiation-induced cancers such as breast cancer, lung cancer, and leukemias. A number of other host factors may contribute to radiation risk as well. Hormonal status may influence radiation risk for breast and thyroid cancer. However, sensitivity to radiation may not necessarily be related to hormonal levels. Although the female breast and thyroid have high radiation sensitivity, the prostate and uterus (two organs under hormonal control) are not known to be susceptible to radiation carcinogenesis. Certain specific groups in the general population may be at higher risks for cancer induction by radiation. For example, cigarette smoking increases the radiation risk for lung cancer in uranium miners. However, the interaction between radiation and cigarette smoking, that is whether the agents interact additively or multiplicatively, is not well understood.

6. Dose response relationships are different for different cancers.

The relationship between radiation dose and excess cancer incidence is different for different cancers. Leukemia data can be fit by a curvalinear dose response model which predicts that the probability of cancer induction per unit dose is lower at low dose than at a high dose. Bone cancer is probably consistent with a threshold dose response function in which a minimum dose must be exceeded in order to induce the cancer. Breast cancer may be fit by a linear no threshold model. In this model the probability of cancer induction per unit dose is equal in the low dose and high dose regions.

7. Risk estimates of radiation induced cancers are based primarily on high dose data.

Dose response models are important in estimating risks of cancer induction following low doses of radiation since the statistical inaccuracies of direct observations at low doses are formidable. Dose response models allow for extrapolation of high dose data to the low dose region. Risk estimates from low doses must be determined in order to evaluate the potential health hazards of various medical and occupational exposure situations including exposures of the atomic Veterans. The fact that different models may be used to describe the dose response relationship for different cancers makes it difficult to determine risks of cancer induced by low radiation doses. What model or models should be used to predict low dose risk estimates?

In light of these generalizations about radiation carcinogenesis, I would now like to discuss Senate Bills 453 and 1002. I fully support compensation of atomic veterans, their dependents, and survivors in a fair and responsible manner. However, how do we identify those veterans who should be compensated? As pointed out clearly in both bills, it is impossible to know with certainty whether or not a particular veteran's cancer was induced by radiation or to know with certainty the actual radiation doses received by a given veteran. The purposes of these two bills is to institute legislation to compensate atomic Veterans, their dependents, and survivors in a fair and responsible manner while recognizing these uncertainties.

Senator Murkowski's bill (S.453) assumes absolute radiation causality in a select list of cancers including all leukemia, (except chronic lymphocytic leukemia), liver cancer, multiple myeloma, and cancer of the bone marrow. The bill fails to recognize the possibility that other cancers including thyroid, colon, small intestine, lung, etc. may also be radiation related. The bill also fails to recognize the potential contribution of other cancer causing agents. Furthermore, the bill does not consider the magnitude of the radiation dose in the determination of radiation causality. Radiation carcinogenesis is a stochastic process. This means that the probability of cancer induction is related, in some fashion, to the radiation dose. In general, the higher the radiation dose, the higher the probability of cancer induction by radiation.

It is unclear to me what the term cancer of the bone marrow means as stated in the bill. In terms of radiation carcinogenesis, bone marrow cancer and leukemia would be considered synonymous.

The bill also fails to include a minimum latency period of 2-3 years for leukemia. The bill presently states veterans could be compensated if leukemia developed within two or three years following radiation exposure.

Finally, although it is recognized that large uncertainties exist in the dosimetry records of atomic veterans, it is unclear in S.453 what the basis of the two-fold increase in dose is. This two-fold increase would seem to be arbitrary and furthermore is not considered in the determination of the radiation causation of cancer.

Senator Cranston's bill (S.1002) takes another approach to the problem by recognizing that not all tissues are equally sensitive to radiation and that statistical associations of radiation exposure and cancer may vary from tissue to tissue. Furthermore the bill recognizes that the atomic Veterans may have been exposed to other cancer-causing agents which can confound the evaluation of induction of cancer by radiation. Unlike the Murkowski bill, S.1002 provides for varying levels of compensation depending upon the statistical association between radiation and the cancer in question as determined by previous epidemiologic studies. In addition to the leukemias, liver cancer and multiple myeloma, Senator Cranston's bill also considers a variety of other cancers known or suspected to be induced by radiation exposure. Like Senator Murkowski's bill, S.1002 fails to consider a minimum latent period for leukemias of 2-3 years. Furthermore, Senator Cranston's bill does not specifically exclude chronic lymphocytic leukemia which is known not to be induced by ionizing radiaton exposure.

Because Senator Cranston's bill more fully incorporates our present understanding of cancer induction by radiation, I tend to favor it more so than Senator Murkowski's bill. However, I recommend consideration of the following in your further deliberations of these bills:

I disagree with the program of variable compensation in Senator Cranston's bill which depends upon the statistical association between radiation exposure and cancer. If an atomic Veteran has cancer and it has been reasonably assumed that the cancer was caused by irradiation, then full compensation should be awarded regardless of the cancer type. To do otherwise, would suggest that some cancers are more compensable than others. For instance, as provided in Senator Cranston's bill, thyroid cancers and leukemias are compensable for any radiation dose level. However, other cancers such as cancers of the small intestine, stomach, liver, etc. are compensable at 50% of the usual rate only if the radiation dose exceeded 1 rem. What is the basis for this 1 rem cutoff? Furthermore it is unclear what the rationale is for the added dosimetry methodology which has been included in the bill to address any underestimations of the DNA exposure calculations.

We do not understand fully the mechanisms of carcinogenesis. We do not know why one person may get cancer while another person does not under similar conditions. Thus, each compensation claim should be handled individually and the decision to compensate should be based on due consideration of the kind of cancer, when it occurred, the complete medical records, the estimated radiation dose (including a consideration that while the DNA estimate may be the best available it could be low) and any other factors which may bear on the case.

To arbitrarily raise dose estimates (either by the method described in Senator Murkowski's bill or Senator Cranston's bill) serves no useful purpose in these compensation claims. Clearly the purpose of arbitrarily increasing dose estimates is to reduce the error in the dose estimates to the veteran's benefit. However, the error reduction in radiation dose which would be achieved in this way would have a minor impact on the total uncertainty associated with the determination of whether a particular cancer was caused by radiation. The collective uncertainties associated with the probability (per radiation dose) of cancer induction by radiation, the presence of other possible cancer causing agents before and during the radiation exposure period and in the latent period, and the influence of other medical conditions which may have contributed to the cancer are much larger. Case-by-case analysis of claims is necessary in order to carefully consider all factors.

Vietnam Veterans of America, Inc
2001 S St. NW
Suite 700
Washington, DC 20009-1125

(202) 332-2700

July 2, 1987

Senator Alan Cranston, Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510-6385

Dear Senator Cranston:

Mr. Chairman and members of the Committee, we wish to thank you for the opportunity to present the views of the Vietnam Veterans of America on several legislative proposals being considered by the Committee on Veterans' Affairs.

Our organization is specifically committed to those who served our country during the Vietnam Era. Therefore, our views are focused on bills, or portions of bills, applicable to those who served during the Vietnam Era.

S.9--SERVICE-DISABLED VETERANS BENEFITS IMPROVEMENT ACT OF 1987

The bill provides for a Cost of Living Allowance (COLA), for veterans receiving compensation, and for survivors and dependents receiving Dependency Indemnity Compensation (DIC). We support the indexing of this COLA to the Social Security Act.

S.9 provides for a modest increase in specially adapted housing allowances and automobile assistance allowances. We support these provisions of the bill as they provide additional assistance to veterans with the most serious service-related disabilities.

The bill provides for liberalization in extending educational delimiting dates for veterans, disabled veterans, and survivors and dependents, who have received recognized treatment for alcohol or drug dependence or abuse; and whose condition has stabilized. We commend the Committee for their compassionate and sensitive recognition of the adverse impact of alcohol and drug dependence or abuse on an individual's ability to readjust. However, there are several specific points we wish to address in regard to these provisions of S.9.

1. In principle we support the liberalization in extending educational delimiting dates for veterans, disabled veterans, and survivors and dependents who have had alcohol and drug related problems.

★ A not-for-profit national veterans' service organization ★

2. Unfortunately, S.9 only addresses the needs of those claimants eligible to educational benefits under the "Educational Assistance Program for Post-Vietnam Era Veterans," and the "Educational Assistance Program for Members of the All-Volunteer Force."

3. Some of those who would be eligible under S.9 also had service during the Vietnam Era, however, as a practical matter the vast majority of Vietnam Era veterans are specifically excluded from the beneficial aspects of this legislative proposal.

4. Countless studies has shown that significant numbers of Vietnam Era veterans, particularly those who still suffer from Post-Traumatic Stress Disorder, have had alcohol and drug dependence and abuse problems that have effectively thwarted their ability to adjust in a timely manner througn traditional educational programs.

5. As proposed, S.9, gives preferential treatment to a class of veterans, who for the most part have had peacetime service, while ignoring the legitimate needs of wartime veterans who may have been unable to complete their education due to alcohol and drug dependence. VVA believes this situation is unfair and represents a double standard in the implementation of educational benefits for two different classes of veterans.

S.453--"VETERANS' IONIZING RADIATION COMPENSATION IMPROVEMENTS ACT OF 1987"

S.453 provides new standards for the Veterans Administration use in determining disability and death benefit cases for veterans exposed to ionizing radiation. The bill would allow presumptive service connection for a number of diseases, for the purpose of establishing eligibility to compensation who were exposed to ionizing radiation.

In our opinion, the scientific underpinnings of this bill have long warranted the granting of presumptive causation for certain radiogenic diseases. VVA believes that other scientific data, equal to that used in formulating S.453, should be used as a basis for granting presumptive causation for certain diseases resulting from exposure of Vietnam veterans to phenoxy herbicides.

S.1365--CONCERNING DISABILITIES OF FORMER PRISONERS OF WAR

This bill extends the list of presumptive disabilities for those veterans previously held as prisoners of war. Peripheral neuropathy, peptic ulcer disease, or irritable bowl syndrome, can reasonably be expected to appear in former prisoners of war who were incarcerated in near starvation conditions, and often held without proper medical care.

In other cases, it is also reasonable to conclude that gastrointestinal problems experienced by former prisoners of war are adjunct to underlying psychological problems rooted in their incarceration. VVA supports the passage of S.1365 and would recommend that this bill be made retroactive to coincide with the "Former Prisoners of War Benefits Act of 1981."

We thank you for the opportunity to comment on these issues. If we may be of any further assistance, please feel free to contact us.

Sincerely,

Richard E. O'Dell
National Treasurer

STATEMENT OF SENATOR LARRY PRESSLER
before the
Senate Committee on Veterans Affairs
Hearing on
Veterans Dioxin and Radiation Exposure
Compensation Standards Act
June 30, 1987

MR. PRESSLER. Mr. Chairman, I would like to publicly congratulate Senator Cranston and Senator Murkowski for assuming the important responsibility of increasing public attention to this area.

Every American involved in the testing of our nuclear weapons systems, or those involved in the occupation of Nagasaki or Hiroshima, Japan, and the various crews who served on the Gilbert and Marshall Islands during the height of testing showed remarkable dedication to the call of duty. Scientific findings indicate that the military personnel who took part in these tests did not receive any information on the actual risks that they were being subjected to in this program and there was no detailed monitoring of health side effects from exposure to radiation.

These veterans, upon their enlistment, entered into a contract which specified that they would be treated just like any other service member who was injured during service to the country. These brave Americans answered the call based on trust and a strong faith in their country, and with the knowledge and understanding that if they were injured, the United States government, through the Veterans Administration, would readily provide them with health care, just as it would for each and every other veteran of the United States Armed Forces.

We did not have a good understanding of the dangers of nuclear weapons when they were developed. Service personnel were not provided with the protective measures that are so common in testing today. We test underground now, and we provide the necessary protective equipment. We also monitor and strictly control the amount of radiation to which individuals are exposed.

We now face the situation of how to handle the legitimate problems experienced by our atomic veterans. The purpose of this hearing is to gain a better understanding of the plight of these veterans and their families. With the expert testimony of the witnesses gathered here today and the able leadership of this committee, I am confident that remedial legislation can be passed during this Congress and great strides can be made in this critical area.

STATEMENT OF

Senator Paul Simon before the
Senate Veterans' Affairs Committee
June 30, 1987

Mr. Chairman and distinguished members of the Committee, thank you for the opportunity to address this issue. Since 1982, I have worked with atomic veterans and their families to correct the problem of compensation for radiogenic illnesses related to veteran service at nuclear detonation sites.

I especially want to express my deep appreciation to the distinguished Chairman, Senator Cranston, and his staff, for their unparalleled leadership in this area, and to the ranking minority member, Senator Murkowski, for his continued cooperation and support in this matter. Finally, I would like to note the thoughtful, sensitive and consistent efforts of Senator DeConcini.

In the past we have moved quickly to aid those veterans injured in battle. But with regard to those veterans injured by atomic radiation, we have been shamefully slow in our response. We have placed the burden of proof on the atomic veterans themselves. The bill before you addresses two of the central problems causing denial of over 99 percent of the claims.

First it is impossible to determine if the radiation exposure or something else caused the disability. Second, this legislation deals with the problem of the Defense Nuclear Agency's (DNA) understatement of exposure amounts.

The bill contains several provisions that will be of great significance to the atomic veteran. A new Title 38 chapter will give disability and death payments to radiation exposed veterans or their families. It also contains a system for adjusting DNA exposure estimates when a veteran applies for benefits and it extends VA health care to these veterans.

I would also like to emphasize again that an important issue is to appropriately and fairly compensate these individuals for the ill-health effects they have suffered. It is a great injustice that is being done to hundreds of veterans by ignoring the internal radiation exposure of service personnel; neglecting evidence about safety violations; and dismissing ample evidence showing incomplete decontamination procedures during the tests. These veterans should not have their government as an adversary when they appeal for medical and disability relief for ailments that are known to be related to radiation exposure.

Constructive action in providing responsible compensation for our nation's radiation survivors has been plagued with both politics and logistic difficulties. Senator Cranston has once again provided us with a thoughtful, innovative means to overcome such difficulties. It is a good bill. It is fair, responsible and sorely needed.

I urge the Committee's prompt and favorable consideration of S. 1002. I hope we may finally do the right thing for those who served us so well.

STATEMENT OF

THE NATIONAL MILITARY FAMILY ASSOCIATION
on
DEPENDENCY AND INDEMNITY COMPENSATION

for

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

June 30, 1987

Mr. Chairman and Members of the Committee:

The National Military Family Association (NMFA) is a volunteer, non-profit organization of family members and personnel (active duty, reserve or retired) of the seven uniformed services. Our mission is to serve as advocates for military families by influencing the development and implementation of policies that affect their lives. We welcome this opportunity to express our views on Dependency and Indemnity Compensation (DIC) and to ask for your continued support of this program.

DIC must be considered as the most significant government program for survivors of service members who die on active duty or of a service connected disability. The very nature of service life makes it virtually impossible for service families to acquire substantial assets while on active duty. Government ordered moves are frequent and costly to the service family: home ownership is difficult. The military spouse experiences an unemployment rate that is three times that of the civilian spouse, and when employed, the military spouse is unlikely to rise above entry level positions. They seldom qualify for their own retirement programs. Thus upon the death of the service member, surviving spouses are less likely to have financial security available from their own employment than are their civilian counterparts.

Unfortunately, the recent attack on the U.S.S. Stark is a harsh reminder that death, injury, or a shortened life are very much a part of military life in peacetime as well as war.

NMFA requests a fair cost-of-living increase this year for the widows, children and the other survivors covered by the DIC program. We also request that the Committee consider bringing the DIC entitlement into conformity with other federal survivor programs which allow surviving spouses to remarry at age 55 and retain benefits.

The remainder of our statement will address a very serious problem. Most military family members, whether active duty or retired, know little or nothing about Dependency and Indemnity Compensation benefits. NMFA has sponsored numerous seminars on military benefits. On each occasion, it has been disheartening to discover that the majority of service spouses attending had so little knowledge about DIC.

How can active duty service families make adequate plans for their financial security without a good knowledge of DIC and how it may relate to other government programs? Unfortunately, most members serving on active duty assume that in the event of their death, someone from the service will see to it that his/her family receives all of the benefits due. Sometimes a well informed person from casualty assistance is available to help the surviving spouse through this traumatic time, but that is not always the case. The assistance provided to survivors of active duty and retired service members varies widely by military service and from post to base. Moreover, if the survivors are initially helped to receive DIC payments, who assists or counsels when circumstance change; e.g., when children reach college age or a spouse remarries?

The problem of receiving DIC benefits can be almost insurmountable to the survivors of a retired service member who dies of service connected disabilities. The volume of paperwork involved in establishing a claim with the Veterans' Administration (VA) can make it impossible for survivors to obtain this entitlement. One NMFA member living in the Washington, D.C. area was unusually fortunate in obtaining help from a professional skilled in working with the VA. Even with this expert's help it took her three years after the death of her husband to obtain the DIC benefits for herself and her children. The service widow who does not live near a military community is usually unable to find any help in obtaining service benefits.

Getting the information to service spouses on military /DIC benefits has been a long standing problem without any easy solution. Some bases provide general orientations on military benefits to active duty service members and their spouses;

others do not. And, a retirement seminar is usually available for a retiree, but not all spouses attend. At one time, there was a standard Department of Defense (DoD) booklet called Your Personal Affairs which described the various survivor benefits available through DIC, but this booklet is no longer used. When it was available, few service spouses had a copy. Each service has a comprehensive retirement book which includes information on VA benefits, but much of that information needs to reach young, active duty service families who should be making plans for their financial security.

One suggestion for improving the flow of information would be to have a military benefits booklet accompany the ID card when it is issued. Psychologically, that would be the ideal time to present this vitally important information directly to the spouse. With a valid ID card the spouse is eligible to use commisary, exchange and military medical facilities. The information presented in a benefits booklet would make the service spouse equally aware of the other valuable benefits which are available to the military family.

The National Military Family Association would welcome the opportunity to work with this Committee and the Department of Defense on ways to make the information on DIC more available to service families and approaches to make the application for these benefits easier for the survivors.

In summary, the National Military Family Association requests:

1. A fair cost-of-living increase this year for DIC recipients.
2. DIC continuance to recipients who remarry after age 55.
3. Establishment of a benefits information program to accompany ID card.

We thank you for this opportunity to again comment on DIC, a program which is of vital importance to military families.

DAV

Motto: "If I cannot speak good of my comrade, I will not speak ill of him."

DISABLED AMERICAN VETERANS

NATIONAL SERVICE and LEGISLATIVE HEADQUARTERS
807 MAINE AVENUE, S.W.
WASHINGTON, D.C. 20024
(202) 554-3501

July 1, 1987

Honorable Alan Cranston
Chairman
Senate Veterans Affairs Committee
414 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Cranston:

I am pleased to respond to the written questions (copy attached) posed to the Disabled American Veterans at the conclusion of the June 30, 1987, hearings recently conducted by your Committee.

With regard to the possibility of extending an exemption to the present upright grave market limitations, as set forth by Public Law 99-576, for the National Cemetery in Riverside, California, and the proposed National Cemetery in Northern California, the National Organization of the Disabled American Veterans would not be opposed to such an exemption. If you have not already done so, I suggest that your query the DAV Department of California regarding this matter. The views of our organization's California membership would certainly be pertinent and, whatever such views might be, they would not be in conflict with those expressed by this office.

Regarding your second question, as was stated in my written testimony of June 30, 1987 (page 21), the DAV is well aware -- and most appreciative -- that you and other members of the Senate Veterans Affairs Committee have publicly expressed your opposition to the automatic indexing of future adjustments of VA disability and death compensation benefits. Our reference to the method of adjustment chosen by Section 2 of S. 9 was meant to underscore, for the record, our opposition to indexing, lest any third party(s) be of a mistaken opinion.

Trusting that your questions have been satisfactorily addressed, I remain,

Sincerely,

JOHN F. HEILMAN
National Legislative Director

JFH:am
Attachment

Follow-up Questions Submitted to the
Disabled American Veterans by Senator Alan Cranston in
Connection with the June 30, 1987 Hearing

1. The California State Veterans of Foreign Wars has contacted me requesting an exemption to the requirement set forth in Public Law 99-576 that mandates the use of upright markers in VA cemeteries for the VA cemetery in Riverside, California, and the proposed new national cemetery in Northern California. Would your organization support such an exemption?

2. On page 4 of your testimony, you state that the provision in section 2 of S. 9 directing the Administrator to increase benefits by a percentage equal to the Social Security adjustment "could be perceived as tantamount to or leading to the automatic indexing of VA disability compensation/DIC benefits." In view of my stated strong opposition to automatic indexing, I do not see how you could believe that this provision might be leading in that direction. Moreover, on the face of the provision, it clearly is not tantamount to an automatic indexing of the compensation COLA; it simply provides a measure for the amount of a COLA to be enacted this year for December 1, 1987, only.

   The COLA in S. 9 is drafted by reference to the Social Security COLA in order to ensure that, even if the legislation is passed by the Congress before the Social Security COLA is known, the increase that is enacted is no less than the inflation that actually has occurred since the base period on which the previous COLA was granted. As drafted, the provision also would ensure that, even if that inflation is unexpectedly high, the bill providing for a COLA at the level of actual inflation does not run into problems under the Budget Act.

Does this explanation remove your concerns about the COLA provision in S. 9?

WRITTEN QUESTIONS FROM CHAIRMAN CRANSTON TO THE VETERANS' ADMINISTRATION AND THE RESPONSES

Q: 1. On page 13 of your testimony, you state that the medical conditions enumerated in S. 1365 "do not lend themselves to a presumption of service connection". What standards do you apply in determining when a presumption would be warranted?

A: We believe presumptions may be warranted for diseases suffered by ex-POW's only when it is likely that, without presumptions, the VA would be unable to identify deserving cases. This is not the case, for example, with peripheral neuropathy claimed as resulting from the POW experience. The condition would exist during or shortly after repatriation and the VA would be able to determine the peripheral neuropathy to be service-connected without resort to a presumption. A presumption in law that later-appearing neuropathies are service-connected would only operate to confer service connection in cases in which there was no relationship to service but the post-service cause could not be specifically identified.

Presumptions for any delayed effects of internment could be justified only on the basis of sound scientific and medical evidence establishing a causal connection between the POW experience and a disease. We are not convinced that presumptions for spastic colon and peptic ulcer are justified by available scientific evidence.

Q: 2. Regarding your proposal in section 202 of S. 940 to exclude from countable income for pension purposes reimbursement for a casualty loss not to exceed the fair market value of the property, the PVA recommends, on page 14 of its testimony, that replacement value be added as an alternative limitation. What would be your position on a proposal to allow the exclusion of reimbursement not to exceed "the fair market value or reasonable replacement value of the property involved immediately preceding the loss, whichever is greater"?

A: We agree that exclusion of reimbursement not to exceed fair market value or reasonable replacement value would be a good idea. The purpose of the reimbursement is to restore a person to the condition prior to the loss. So long as he or she does not "profit" from the "loss" we do not believe there should be countable income for pension purposes.

3. The California State Veterans of Foreign Wars has contacted me requesting an exemption to the requirement set forth in Public Law 99-576 that mandates the use of upright markers in VA cemeteries for the VA cemetery in Riverside, California, and the proposed new national cemetery in Northern California.

Q: Would the VA support such an exemption?

A: The cemetery at Riverside was originally conceived and designed for using flat markers. The flat markers particularly compliment the sweeping layout, curvilinear roadways and open setting. Operationally and equipment-wise, Riverside is also based on the use of flat markers and is one of our most efficient cemeteries.

Master planning is currently underway for the new national cemetery in Northern California. It is the consensus of the design team that flat markers would be most appropriate for the cemetery's setting and site layout.

The VA would not object to exemptions for Riverside and Northern California. However, given the recent passage of P.L. 99-576, the VA would defer to the Congress on whether exemptions would be appropriate.

Q: 4A. Please describe each of the uses that the VA has made over the past 5 years of the administrative authority, described in the Comptroller General's May 1, 1979, decision entitled "Veterans Administration: Repair and Maintenance of Congressional Cemetery", to make expenditures for certain improvements on non-federal property adjacent to VA cemeteries. In each case, please provide a copy of the administrative determination authorizing the expenditure.

A: Calverton National Cemetery - construction of acceleration, de-acceleration and left-turn lanes on State Route 25 at the cemetery entrance.

Quantico National Cemetery - improvements to Route 619 at cemetery entrance to provide for turning and adequate vertical sight distance.

Fort Mitchell National Cemetery - construction of acceleration and turning lane on Alabama Highway 165 at cemetery and adjacent park entrances.

Indiantown Gap National Cemetery - construction of entrance, access improvements and grade separation involving the construction of a bridge on Old Cumberland Road, a county facility.

Fort Logan National Cemetery - participation in off-site drainage improvements as a shareholder in the Soda Lakes Reservoir and Mineral Water Company, Denver, Colorado. Such actions were required to provide for the conveyance of irrigation water to the cemetery.

The first four items listed above were accomplished as part of a Major or Minor construction project. These projects were of such magnitude that they routinely require a Project Submission be defined for the Administrator's approval of the overall project. The administrative determination authorizing the non-federal property improvements, therefore, becomes part of the overall project approval. A typical submission would be for Quantico National Cemetery. (See attached.) The last item listed above required environmental compliance and publication in the Federal Register.

Q: 4B. Assuming that S. 919 is not enacted, what is your timetable for making any determinations with respect to the making of improvements, at VA expense, necessary for safe ingress to and egress from the proposed new national cemetery in Northern California via McCabe Road?

A: Determination for improvements to McCabe Road will be made as part of the ongoing design process. Presently, master planning is underway and is concerned mainly with the immediate entry point to the cemetery. The VA Office of Facilities is preparing to make inquiries to the county regarding their participation in improvements to McCabe Road. The preliminary design will delineate all construction requirements and is scheduled to be completed and approved in May 1988. Final bid documents are scheduled for completion in May 1989.

Veterans
Administration

Memorandum

Date: JAN 17 1983

To: Acting Director, Land Management Service (088)

Subj: Quantico National Cemetery Road Improvements

1. We are responding to the request in your memorandum dated November 23, 1982, for an opinion as to whether the VA may expend appropriated funds to make alterations to an existing roadway, Joplin Road, Highway 619, which is owned by the Commonwealth of Virginia, and which provides access to the Quantico National Cemetery. According to your memorandum, the VA may choose to expend a lesser amount, $25,000, which would upgrade Joplin Road, thereby providing safe access to the cemetery, or spend a larger sum, $54,370, to redesign the entrance road on VA property. We believe the facts in this case are similar to those in a prior opinion issued by this office on December 22, 1978, to warrant the expenditure of VA funds to improve Joplin Road.

2. As stated in that opinion, the general rule is that appropriated funds may not be used for permanent improvements on private property in the absence of express statutory authority. Since this rule is one of policy, not law, the expenditure of funds for such improvements is not prohibited in all cases. 55 Comp. Gen. 872 (1976); 53 Comp. Gen. 351 (1973); Comp. Gen. Dec. B-194031, May 1, 1979. The facts, however, determine the propriety of expending appropriated funds for such purposes. 53 *id*. 351, 353.

3. 38 U.S.C. § 1004(e) authorizes the Administrator to enter into contracts for the care and maintenance of cemeteries under his jurisdiction, such as the one at Quantico. Furthermore, the VA's 1983 appropriation act, Public Law 97-272, specifically provides, under the subheading, "Construction, Minor Projects," that funds may be used for alterations and improvements of national cemeteries, language identical to that examined in our prior opinion. Here, as stated in 53 Comp. Gen. 351 (1973), we believe the VA would be incurring "expenses which are reasonably necessary and proper or incidental to the execution of the ... purpose [of the] ... appropriation," that is, improving the cemetery by insuring safe ingress to and egress from the cemetery for its employees and visitors. Improvements and alterations for this purpose may be authorized by these statutes and decisions.

4. However, additionally, an administrative determination must be made by your office, in conjunction with the Department of Memorial Affairs, as to whether the proposed improvements meet the test set out by the Comptroller General in 53 Comp. Gen. 351(1973) and more recently in the May 1, 1979, decision, B-194031. The criteria are as follows:

> "... (1) the improvements were incidental to and essential for the accomplishment of the purpose of the appropriation; (2) the cost of the improvement was in reasonable proportion to the overall cost of the lease or contract price; (3) the improvements were used for the principal benefit of the Government; and (4) the interest of the Government in the improvements was fully protected." 53 Comp. Gen. 351, *supra*, at 352.

5. Provided each criterion is answered affirmatively, we believe that, as in the December 22, 1978, opinion, the VA would be authorized to expend appropriated funds to improve Joplin Road.

John P. Murphy

JOHN P. MURPHY
General Counsel (025)

Memorandum for the Record

Subject: Joplin Road (SR 619) Improvement — Quantico National Cemetery —
Project No. 787-348-002A — Quantico, Virginia

1. By memo dated January 17, 1983, the General Counsel has stated his opinion in regard to the proposed improvements to Joplin Road (SR 619) adjacent to the main cemetery entrance and believes that the VA would be authorized to expend appropriated funds for this work, provided that an administrative determination is made.

2. Therefore, in order to comply with the conditions required by the General Counsel, I have made the following determinations:

a) The proposed improvements are incidental to and essential for the accomplishment of the purpose of the appropriation.

b) The cost of the improvement is in reasonable proportion to the overall cost of the contract price ($43,116.00/$3,506,265.46 or 1.2%)

c) The improvements will be for the principal benefit of the Government.

d) The interests of the Government in the improvement are fully protected.

SIGNED

FEB 02 1983

B. C. BAUER, Contracting Officer (081A)

DATE

CONCURRENCE:

SIGNED

FEB 02 1983

Paul T. Bannai
Chief, Memorial Affairs Director (40)

DATE

cc: 08
08-1
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Q: 5A. With reference to section 4 of S. 917, which would permit the use of flat grave markers in certain newly-acquired sections of the Wood National Cemetery, could you please provide the views of the Chief Medical Director as to the extent to which the use of upright markers would be contrary to the mental health of the veterans utilizing the nearby VA Medical Center?

A: 5A. In June 1985, at the time of the transfer of land from the Department of Medicine and Surgery to the Wood National Cemetery, the Department of Medicine and Surgery requested a condition that only flat grave markers be used in the new burial section. DMA agreed to this request. The reason for this request was the Chief Medical Director's concern that the upright headstones would be more conspicuous from the nearby medical center facility and could adversely affect patient care. The parcel of land is immediately adjacent to a 200 bed domiciliary and forms an integral part of the medical center complex. The nature of the medical problems of the domiciled veteran, usually individuals who require positive reinforcement regarding the benefits of community life and contributions to society, is such that a highly visible cemetery could create additional patient stress and depression and offer potential negative effects on their treatment program.

Q: 5B. Are the Chief Medical Director and the Chief Memorial Affairs Director satisfied that there are no other situations (such as at Biloxi, Mississippi) where the use of upright markers could create, in the Chief Medical Director's view, a situation similar to that which has caused the VA to seek an exception for Wood National Cemetery?

A: The Chief Medical Director and Chief Memorial Affairs Director are satisfied that there are no other situations at other combined VA Medical Center/National Cemetery sites where upright marker usage has similar potential adverse patient impact. Of the thirteen other national cemeteries located near VA medical centers, none of the cemeteries are in such close proximity as to make the use of flat markers medically indicated.

Q: 6. Regarding your proposal in section 201 of S. 940 to impose certain new conditions on the recognition of overseas adoptions of children for purposes of dependency allowances and survivors benefits, the Paralyzed Veterans of America has suggested perhaps that the children of the veteran's spouse be exempt from the proposed new restrictions. What is your reaction to this suggestion?

A: The children of the veteran's spouse are considered stepchildren of the veteran, so long as they are members of the veteran's household. The veteran would be entitled to additional benefits for them as stepchildren. Therefore, whether or not they were adopted by the veteran would have no effect upon their status as far as the VA is concerned. We see no need to specifically address children of the veteran's spouse in this legislation which is intended to apply to children who would not otherwise qualify.

QUESTION NO. 7: Charles Stenger of the American Ex-Prisoners of War, in his testimony before the Committee on June 30, described the case of a former POW whose claim for VA disability compensation based on the residuals of a traumatic head injury was denied. According to Dr. Stenger, despite the submission to the VA of a statement from a former POW who had seen the veteran while in internment with a large bleeding bandage wrapped around his head, the VA refused to service-connect the veteran for the scar on his head. Dr. Stenger further testified that, although the veteran was examined by VA doctors on several occasions, none of them ever even looked at his scar. The Committee's staff has given VA staff the veteran's name and claim number; please respond to the following questions without reference to the veteran's name.

A. Dr. Stenger's comments raise disturbing questions about the VA's handling of this case, particularly with respect to the apparent incompleteness of the VA's physical examinations and the VA's apparent failure to accept corroborating "buddy" testimony in support of the claim in question. Is his description of this case accurate?

ANSWER

Dr. Stenger's description, as stated in the question, is an oversimplification of the veteran's claims history and is, therefore, misleading.

The veteran claimed compensation in 1949 and 1953. In neither instance were head scars brought into issue. He reopened his claim in 1982. The veteran's primary disabilities were cardiovascular and cerebrovascular as well as nervous and stomach conditions. Over the course of three years, the veteran was examined at least two times at the request of the regional office. Once he received a medical protocol examination which was forwarded to the regional office and treated as a supplemental claim. In the two examinations requested by the regional office, examination for head scars was indicated. In neither examination are head scars reported; however, the examiners obviously examined for scars. The protocol examination was typically thorough, but the report of that examination does not indicate head scars.

More importantly, we must look at the significance of the head scars, if they exist. The veteran's claims history since 1982 is complex; but, we must assume from his testimony at personal hearings in 1983 and 1985 that he intended to show a causative relationship between the scars and his cerebrovascular condition. Even assuming that a scar is present, the rating board would have little more than speculation to rely upon to conclude that any head trauma in 1945 resulted in a cerebrovascular condition first claimed 37 years later.

We recognize that the veteran's military discharge examination was perfunctory and we fully accept the statements of the veteran and his comrades concerning the events he experienced during capture; but, we must also rely upon sound medical principles and the perspective provided by all the evidence of record, including the veteran's earlier claims and available records of hospitalizations dating back to 1949. The principles we must apply and the evidentiary perspective provided do not favor this veteran with a reasonable doubt regarding the origin of his primary conditions.

We cannot determine whether the examining physicians simply over-looked any scar on the veteran's head, found no scar, ignored a scar or felt the scars they may have examined were too insignificant to report; but the presence of any head scar would not, without further historical medical evidence, serve to suppport the veteran's claim concerning his cerebrovascular condition. The regional office decision was upheld by the Board of Veterans Appeals decision dated June 17, 1987.

B. If so, please comment on the reasons for the VA's failure to allow any claim for disability for the scar or other disability.

ANSWER

See response to 7. A.

C. What can and does the VA do to ensure that ex-POW medical examinations are comprehensive in all VAMCs and that the spirit as well as the letter of the ex-POW examination protocol is followed?

ANSWER

One of the early recommendations of the Former Prisoners of War Advisory Committee was that the Department of Medicine and Surgery develop a standard protocol for obtaining the history and medical evaluation of former prisoners of war. Consequently, a special history-taking and medical evaluation protocol was developed and has been in use since July 1983.

DM&S established physician, administrative, and social work coordinator positions at all medical centers to handle the former POW examination program. A senior medical clinical coordinator exists in each medical district, and a new chapter to the Physician's Guide, "Medical Evaluation for Former Prisoners of War," was added.

DM&S has conducted an extensive sensitization program beginning with an educational conference in April 1983 in VA Central Office for 28 senior medical clinical coordinators. A National Educational Conference on former POWs was conducted in Dallas, Texas in March 1985. More than 200 DM&S employees attended the conference, including physicians, social workers, and administrative staff. The objectives of the conference were to update field personnel regarding the special needs of former POWs, to provide staff with data from the statistical tracking system, to discuss the continuing treatment needs of former POWs, and to review the pertinent research studies related to former POWs.

DM&S conducted a Former Prisoner of War Followup Conference in Williamsburg, Virginia in September 1986. The purpose of the conference was to update the senior medical clinical coordinators on the continuum of needs of former POWs, the current research studies related to former POWs, the sensitivity needs of former POWs, and the followup needs of former POWs. In addition, there have been over 360 education programs conducted by the VA field facilities. The Department of Medicine and Surgery regularly disseminates information on the problems of former POWs through Directives (circulars), conference calls and information letters to the field. The total number of written documents disseminated to DM&S field facilities since 10/6/81 is forty-one (41).

Systematic external (quality assurance) reviews of the former POW programs in the field facilities have continued to be conducted since May 1984.

In 1984, DM&S developed a former POW statistical tracking system. Each medical facility was requested to provide information on former POWs who had entered the program as of July 1, 1983. The March 31, 1987, report showed that approximately 24,300 former POWs had been examined.

D. What weight does the VA give to "buddy" statements and other, non-medical-record evidence when evaluating claims for benefits from former POWs?

ANSWER

A determination as to whether a disability is service connected involves consideration of all available and relevant information regarding the origin and course of the condition. In some cases the service medical records do not contain entries regarding the disability in issue. In these circumstances we attempt to secure secondary evidence tending to support the veteran's allegations regarding the relationship of the disability to service. The veteran is encouraged to contact persons who had knowledge of the claimed condition during service and we will, if possible, assist the veteran in contacting these persons.

Once a supporting statement is received, it is the responsibility of the Veterans Administration to consider this statement, as well as other information received from any other sources. In evaluating supporting statements we are primarily interested in the basis of the affiant's knowledge, whether personal knowledge or hearsay, the extent to which the statement is specific as to dates and places of incurrence or treatment, the extent to which the statement is specific as to the nature of the injury or illness observed and the personal observations of the affiant regarding the residual difficulties encountered by the veteran.

It is sometimes alleged that supporting statements are disregarded and that as a result benefits are being denied to veterans who are actually entitled. We often receive claims from veterans alleging current disability as the result of injuries received in service many years ago. The supporting statements submitted clearly show that an injury did in fact occur in service. However, often the veteran has been able to submit no evidence of continuity of symptomatology in the years since the injury and thus there is no way to link the in-service incident to current symptoms. In other cases, no current disability can be found. In situations such as these it may appear that the VA is disregarding the supporting statements and assuming that no injury took place, when in fact we are making a much different determination.

QUESTION NO. 8: The American Legion, on pages 18-19 of its written testimony, opposes the VA's proposed amendment to the definition contained in section 101(4)(B)(i) of title 38 of a legally adopted child of a veteran for purposes of eligibility for increased benefits under title 38. The Legion expressed its concern that U.S. veterans who adopt children while residing in a foreign country would inequitably be denied increases in VA compensation. Please provide your comments on The American Legion's views.

ANSWER

The proposed changes in the requirements for recognition of a foreign adoption are not specific to any group of veterans and we had no intention to provide different criteria depending upon the type of service or citizenship of the veteran. If the "U.S. veteran" referred to adopts a child who is orphaned by the death of both parents or is placed for adoption by a recognized agency, it will make no difference where the adoption takes place. The child will be recognized as a dependent. If any person claiming VA benefits for a dependent adopts a child in a foreign country under circumstances prone to abuse, we believe the proposed restrictions should apply. The American Legion probably had in mind active duty or retired service personnel who adopt orphans in the countries in which they are stationed. The proposed restrictions would not affect these types of adoptions. They would only affect adoptions where the child still has a parent living and where there was no supervision of the adoption, adoptions which we have found by experience are usually adoptions of relatives for the sole purpose of increasing benefits from the VA.

WRITTEN QUESTIONS FROM SENATOR MITCHELL TO THE VETERANS' ADMINISTRATION AND THE RESPONSES

Question 1.

Is there a legal basis for considering chromosome damage, if it is ascertained that it occurred during or resulted from active military service, a disability under Title 38? Should there be?

Answer 1.

Title 38, CFR, Section 4.1, provides, in pertinent part, that the evaluation of disability resulting from diseases or injuries as a result of or incident to military service represents as far as can practicably be determined the average impairment in earning capacity resulting from such diseases or injuries. Chromosome damage does not constitute a disease or injury and would not impair earning capacity. Consequently, there is no legal basis for considering chromosome damage as a disability under the law nor should there be.

Question 2.

Is there a legal basis for compensating or providing health care to a veteran's natural children based on disability or injury suffered by the children from disability or injury that occurred during or resulted from the veteran's active military service under Title 38? Should there be?

Answer 2.

There is no legal basis under Title 38, U.S.C., for compensating or providing health care to a veteran's natural children based on disability or injury suffered by the children as a result of the veteran's active service. We are not currently aware of any sound scientific or medical evidence that would support such a legal basis.

Question 3(a).

Is there a statistical basis for the Committee to consider the establishment of a mechanism to provide benefits and services to natural children of veterans suffering genetic or congenital disabilities that may result from the veteran's exposure to ionizing radiation during active military service?

Answer 3(a).

Most veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki received very low amounts of ionizing radiation. Consequently, we know of no statistical basis for the establishment of a mechanism to provide benefits and services to natural children of veterans suffering genetic or congenital disabilities that may result from the veteran's exposure to ionizing radiation during active service.

Question 3(b).

Would you support a study which the Committee could use in order to evaluate the merits of establishing such a mechanism? In your response, please touch on the technical feasibility, cost, and desirability of undertaking such a study.

Answer 3(b).

We would not support such a study because of the low dose of radiation received by most veterans (see answer 3(a) above) and because of the difficulty in distinguishing between children's congenital or genetic disabilities which occur by probability and those which may result from a veteran's exposure to ionizing radiation. A study would not be technically feasible, its cost would be unknown, and it would not be desirable because the results would probably be inconclusive and, therefore, not useful.

Question 3(c).

Do you have any preferences on the agency to conduct the study?

Answer 3(c).

No.

WRITTEN QUESTIONS FROM SENATOR MURKOWSKI TO THE VETERANS' ADMINISTRATION AND THE RESPONSES

SUBJ: The Veterans Administration Insurance Amendments of 1987

1. I am replying to your request for additional information concerning sections 101 and 102 of S.1090. The questions presented in your letter have been restated below, followed by the requested information.

2. Please describe how this authorization would be implemented if enacted.

Shortly after enactment, we plan to raise payments to National Service Life Insurance (NSLI) annuitants to 50 percent above the rates authorized under current law. For example, a NSLI annuitant who currently receives $50 monthly, will receive $75 monthly after the increase. If an annuitant dies before receiving all guaranteed payments and a lump sum payment of the balance is required, the amount due will be based on the current payment rate, and will not include the increase. The NSLI program is presently the only program with sufficient gains from reserves to justify an increase in the payments to annuitants. We will continue to monitor the reserves for all programs affected by this legislation, and will make adjustments based on each program's experience. Once an increase is implemented , it is unlikely that it would later have to be reduced. However, if a reduction is required, the minimum payment will not be less than the amount which is authorized under current law. Notice of any changes in the payment rate will be provided to the annuitants.

3. What criteria would be utilized by the Administrator to determine whether the adjustments would be "administratively" sound?

The reserves for the programs affected by the requested legislation are constantly monitored by the Insurance Actuarial Staff. Payments under life annuity settlement options will be increased if the following criteria are met:

a. It has been actuarially determined that excess earnings are being generated by the reserves held for these annuitants.

b. These excess earnings are expected to continue to be earned for a significant period of time.

c. The initial increase in payments for a group of annuitants would be significant enough to justify the start-up effort required. The required level of increase initially would have to be at least 25 percent. Subsequent increases would need to be at least 10 percent in order to justify the costs of implementation.

4. Please provide, for the last ten program years, the amounts in the trust funds for each of these four programs which are attributable to interest and mortality gains on the reserves held for the annuity accounts.

YEAR	USGLI	NSLI	VSLI	VRI
1977	$2,427,000	$31,003,000	$238,000	$ 61,000
1978	2,678,000	30,682,000	303,000	106,000
1979	2,667,000	34,767,000	304,000	119,000
1980	1,452,000	38,506,000	3,000	(23,000)
1981	2,395,000	41,182,000	233,000	80,000
1982	1,944,000	39,156,000	249,000	96,000
1983	2,005,000	38,566,000	207,000	63,000
1984	2,299,000	42,406,000	285,000	101,000
1985	2,344,000	39,910,000	227,000	130,000
1986	1,286,000	36,858,000	261,000	375,000

5. Are the gains on the annuity reserves attributable more to increased interest earnings or to favorable mortality experience?

Although the quantitative determination of the excess earnings on these reserves cannot be broken into interest and mortality segments, the gains are primarily attributable to increased interest earnings. The portfolio interest rate for the NSLI program has risen from 5.83 percent in 1977 to 9.44 percent in 1986.

6. What, if any, quantitative impact would this proposal have on regular annual dividends paid to policyholders if these provisions are enacted?

There will be no decrease in dividends paid to policyholders if this proposal is enacted. In the NSLI program, we no longer distribute excess earnings from the reserves held for annuity payments as dividends to the policyholders. As of the end of calendar year 1986, a total of $52.5 million has been set aside in a special reserve to fund the 50 percent increase in payments to NSLI annuitants. Despite this change of practice, high earnings on our investment portfolio have resulted in continued increases in dividends paid to NSLI policyholders. Should increased payments be adopted at some later date for the other insurance programs, we will take measures to minimize their effect on regular annual dividends.

7. Would the distributions to the beneficiaries be taxable?

It is our opinion that the distributions would be tax-exempt under the authority of 38 U.S.C. section 3101, which provides that veterans benefits are generally not subject to taxation. However, it should be noted the issue of taxability of veterans benefits is a matter which is under the jurisdiction of the various taxing authorities.

8. Please provide for each of the programs for the last ten program years: (1) The amount of administrative costs of each program, and (2) The amount, if any, of expenses based on the extra hazards of military service borne by the Government.

(1) Administrative cost information for the Insurance programs is provided below. Since the Government is reimbursed for the administrative costs of the VRI program, it is possible to provide a breakout of VRI program costs versus the administrative costs (total) of the other programs that are administered by the VA (NSLI, USGLI and VSLI). A total of all of the administrative costs for each year is also shown below.

YEAR	VRI	ALL OTHER	TOTAL
1977	$ 742,370	$17,682,229	$18,424,599
1978	687,032	20,096,991	20,784,023
1979	716,407	19,331,871	20,048,278
1980	991,632	20,072,267	21,063,899
1981	1,059,218	21,468,249	22,527,467
1982	1,052,036	24,061,972	25,114,008
1983	1,044,710	24,259,853	25,304,563
1984	1,133,988	26,207,398	27,341,386
1985	1,398,666	26,926,990	28,325,656
1986	1,278,438	26,199,861	27,478,299

(2) Expenses based in the extra hazards of military service exist only for the NSLI and USGLI programs.

YEAR	NSLI	USGLI
1977	$2,235,308	$33,374
1978	2,429,234	42,912
1979	2,061,763	29,397
1980	1,926,602	22,376
1981	2,043,524	23,947
1982	2,049,926	23,0830
1983	1,978,325	22,567
1984	1,817,706	22,158
1985	1,806,797	6,362
1986	1,486,479	8,767

9. Please provide the aggregate amount of State and local taxes paid for each of these programs for the last ten program years. Please also include in your response a breakdown by each state, the District of Columbia, and the Commonwealth of Puerto Rico.

See Attached Listing.

10. Please list all the reasons for the Administration's proposal to fund the Veterans' Mortgage Life Insurance program from the Veterans Insurance and Indemnities appropriation, instead of the Burial Benefits and Miscellaneous Assistance appropriation. In the event of a future sequestration, what would be the effect of this change on both the Insurance and Indemnities appropriation and the Burial Benefits and Miscellaneous Assistance appropriation?

The Insurance Service supervises the VMLI program and provides the VMLI projections for the President's Budget. These budget projections are provided for inclusion in the Burial Benefits and Miscellaneous Assistance portion of the Compensation and Pension budget submission. It would seem more efficient and logical to consolidate the VMLI budget request with the other Government Life Insurance programs. The VI&I fund would be the appropriate vehicle here.

Current funding for the VMLI program consists of premiums deducted from veterans' compensation checks as well as a limited number of direct payments made by insureds to Bankers Life, and from the VA Compensation and Pension appropriation. Since a payment and collection system will have to be developed for this program if the proposed legislation (to bring VMLI in-house) is enacted, new accounts will have to be established for the purpose of crediting premium payments paid directly by insureds and for premiums deducted from insureds' compensation benefits. In addition, payments will have to be made to the financial institutions which hold the mortgages on the homes of veterans who die while covered by VMLI.

If VI&I is used for this purpose, we would be able to establish subaccounts similar to those established for "H" insurance (NSLI non-participating policies). All remittances and disbursements for these "H" accounts are accounted for as part of the VI&I appropriation. VMLI would be handled in a similar manner.

Public Law 99-576 dated October 28, 1986, specifically exempted the VMLI program from the sequestration and or reduction provisions of the Balanced Budget and Emergency Deficit Control Act of 1985. Transferring the funding of the VMLI program to VI&I, therefore, will not affect that exemption. Even if this were not the case, the same law exempted the VI&I appropriation from the provisions of the Balanced Budget Act.

SALT TAXES PAID FOR 1977 THROUGH 1986 BUSINESS

STATE	1986	1985	1984	1983	1982	1981	1980	1979	1978	1977	TOTAL
Alabama	173,131.25	88,033.14	97,333.27	94,811.11	119,212.39	81,503.37	88,062.30	84,403.38	86,212.72	88,675.61	931,549.94
Alaska	10,555.82	8,241.39	7,386.90	7,227.73	9,087.94	6,269.50	6,004.83	5,754.78	5,998.96	6,100.83	73,500.92
Arizona	60,481.75	28,233.68	31,063.06	31,461.98	39,399.26	27,536.63	60,154.73	27,870.69	29,061.63	29,942.76	346,176.19
Arkansas	54,663.03	38,390.31	44,176.56	43,226.79	56,309.63	37,106.77	40,361.98	38,604.88	40,659.62	41,892.39	433,579.76
California	337,476.32	249,055.84	292,595.14	207,281.96	360,308.47	235,666.79	290,318.96	272,370.14	276,625.38	285,812.09	2,916,999.09
Colorado	53,378.79	37,649.07	50,513.56	69,743.90	62,546.39	43,702.16	67,034.09	46,038.21	46,791.89	48,218.39	686,008.07
Connecticut	61,938.96	29,969.41	37,658.71	36,363.92	45,974.27	31,470.46	33,890.72	32,226.74	34,127.42	33,162.16	338,982.73
Delaware	12,794.94	9,260.57	9,559.52	9,333.56	11,760.86	7,667.61	8,539.39	7,017.27	8,331.86	8,790.34	93,856.12
Dist of Col.	10,307.63	8,241.39	9,559.52	9,353.56	11,760.06	7,067.61	8,539.30	7,673.03	8,798.47	9,063.24	91,164.30
Florida	81,745.42	57,691.11	73,724.16	72,277.33	90,079.38	62,572.12	67,640.01	63,066.18	66,255.10	68,264.09	704,743.09
Georgia	112,755.35	79,231.61	84,732.07	82,906.36	104,203.97	71,630.29	78,055.39	74,524.35	77,606.53	80,041.94	843,816.06
Hawaii	32,383.45	23,154.62	31,087.09	30,809.50	38,730.83	25,920.79	27,727.01	23,713.00	35,735.54	26,313.82	286,204.47
Idaho	25,589.87	17,607.65	30,057.13	20,407.77	25,660.06	17,702.15	19,213.63	18,415.20	19,096.60	20,190.76	205,240.26
Illinois	138,967.21	96,901.09	91,939.62	89,567.44	112,619.19	78,430.28	85,393.94	82,101.47	83,051.92	87,630.64	948,202.76
Indiana	91,097.03	64,434.25	71,841.22	69,726.55	87,671.07	60,082.20	65,913.60	63,220.79	66,921.73	68,930.76	712,859.90
Iowa	42,137.60	31,218.13	117,611.03	114,793.72	144,337.06	96,624.16	102,739.58	97,191.77	107,440.06	110,703.88	967,807.73
Kansas	34,475.24	24,225.27	32,444.42	32,020.86	40,272.06	27,536.63	29,087.08	28,390.23	30,128.11	31,041.57	310,430.37
Kentucky	55,644.72	38,710.49	43,162.67	42,232.79	53,102.07	36,387.72	39,761.55	38,363.17	39,993.07	41,209.63	428,565.84
Louisiana	68,170.78	45,237.35	76,043.00	30,600.61	63,623.19	43,473.54	46,950.04	44,572.06	47,367.04	48,887.29	531,862.58
Maine	24,079.84	861,620.34	16,311.09	15,272.71	19,937.82	13,768.32	15,210.79	14,834.53	14,930.75	15,383.44	1,012,969.83
Maryland	75,347.95	31,946.90	43,742.03	42,799.63	53,014.83	36,879.44	40,620.61	36,063.26	39,193.20	40,381.32	460,197.27
Massachusetts	83,877.91	60,937.08	57,067.42	55,837.93	70,200.78	48,035.00	52,570.64	50,206.26	52,824.25	54,116.73	583,962.70
Michigan	138,967.21	96,651.35	102,837.25	99,771.33	125,049.16	87,773.07	96,068.18	96,600.33	96,316.60	99,442.92	1,040,137.30
Minnesota	63,396.33	45,703.35	33,011.07	31,069.73	63,219.32	45,230.78	49,360.07	48,851.65	50,124.66	51,644.39	326,028.93
Mississippi	70,905.26	49,824.14	50,619.01	54,420.72	68,426.02	46,460.10	50,635.79	47,936.46	50,771.19	52,331.15	547,178.60
Missouri	87,811.66	50,690.10	63,440.03	61,790.20	77,692.96	53,043.98	58,703.33	57,291.99	58,923.12	60,709.63	633,902.00
Montana	21,502.60	14,766.18	19,317.35	19,096.06	24,011.76	16,565.02	17,979.43	17,384.00	18,330.16	18,883.92	188,239.32
Nebraska	12,972.64	8,990.02	23,146.81	20,691.21	26,016.63	17,967.99	19,089.49	18,671.05	19,463.29	20,033.41	185,434.16
Nevada	10,639.20	13,111.62	20,837.13	17,630.70	17,463.10	11,001.42	12,009.09	11,309.35	12,264.36	12,636.39	108,742.90
New Hampshire	18,036.99	13,236.09	13,615.07	13,321.76	16,730.32	11,339.56	12,542.23	11,760.32	12,264.36	12,636.39	136,324.60
New Jersey	92,763.28	66,931.68	67,234.00	67,742.46	83,177.16	58,269.52	62,711.17	58,826.60	62,922.63	64,630.19	687,200.25
New Mexico	38,917.93	27,721.70	37,369.02	30,469.96	38,311.07	26,430.27	28,467.02	27,496.04	28,661.70	29,330.70	313,396.21
New York	134,338.42	84,708.46	77,363.19	75,253.66	91,621.47	63,522.08	70,716.08	69,460.96	70,634.42	116,474.38	859,176.49
North Carolina	82,411.02	82,413.88	93,395.17	92,672.72	116,272.16	80,442.10	89,063.21	87,518.73	88,908.58	91,602.53	907,050.00
North Dakota	10,662.45	7,092.35	28,837.29	29,477.09	37,644.33	30,475.54	32,022.75	28,434.17	33,660.05	34,601.40	273,779.18
Ohio	210,133.87	152,632.32	174,171.31	169,710.46	213,380.34	160,439.79	160,780.77	138,256.33	162,630.47	167,569.37	1,725,123.39
Oklahoma	92,407.06	65,433.21	89,001.55	80,433.60	111,193.39	76,217.31	82,191.66	76,730.34	82,119.10	86,608.90	849,137.30
Oregon	31,579.38	36,525.22	41,389.36	40,015.34	51,320.12	33,600.06	39,327.91	38,357.06	39,293.19	40,004.33	414,972.31
Pennsylvania	181,616.99	126,870.30	137,674.31	129,016.10	163,226.09	112,359.37	121,606.36	116,374.38	127,643.41	126,343.93	1,333,634.01
Rhode Island	16,706.50	11,987.76	10,020.56	10,203.89	12,830.63	8,851.07	9,606.82	8,951.87	9,990.34	9,009.33	109,032.19
S. Carolina	29,237.06	62,490.70	66,318.30	63,003.19	81,838.90	56,406.27	58,963.36	52,782.11	60,056.11	57,001.12	586,224.10
South Dakota	16,082.21	11,062.09	19,915.66	19,840.09	20,907.20	14,993.73	17,679.21	16,305.20	18,330.13	18,085.91	181,205.13
Tennessee	75,703.37	52,943.96	57,080.72	52,720.00	66,280.09	43,730.91	49,902.00	47,317.04	50,124.64	51,640.39	546,257.00
Texas	251,900.28	177,631.19	152,144.45	121,839.17	156,334.88	108,306.18	117,624.11	119,333.23	211,252.79	216,029.73	1,613,419.95
Utah	20,390.34	17,120.76	17,272.31	16,900.19	21,209.74	14,639.30	15,911.29	14,674.60	15,097.20	16,379.24	170,473.32
Vermont	11,373.28	8,201.59	13,615.07	13,321.76	16,730.32	11,063.03	11,741.67	10,702.25	11,997.92	12,361.69	121,209.36
Virginia	110,356.31	76,472.00	79,043.69	78,123.50	98,229.92	68,319.16	74,753.05	69,348.06	71,987.82	74,170.14	801,380.33
Washington	73,163.09	53,133.76	71,937.09	71,233.16	89,681.91	57,777.79	62,711.17	59,082.36	61,056.00	62,997.26	662,700.07
West Virginia	63,840.52	31,842.50	36,738.07	37,414.25	47,003.44	32,653.91	33,225.00	34,145.00	33,993.76	37,085.07	373,209.82
Wisconsin	71,430.39	50,190.76	50,726.15	57,255.13	71,990.72	60,018.65	53,371.21	51,609.33	53,057.33	58,090.25	572,638.72
Wyoming	8,005.37	6,243.63	7,242.06	7,086.03	8,909.74	6,146.57	6,671.60	6,390.19	6,663.51	6,867.61	71,112.11
Puerto Rico	73,215.46	51,946.98	38,017.43	37,414.25	47,043.64	31,962.18	34,137.38	33,209.81	23,193.90	36,260.96	419,261.99
Virgin Islands	4,410.07	2,622.32	434.52	366.00	712.78	491.73	533.71	767.30	333.24	349.41	11,621.96
Guam	8,329.95	5,993.88	9,049.20	9,637.00	12,117.25	7,867.62	8,339.39	9,207.64	9,063.09	9,339.94	90,746.96
Total	3,722,374.71	3,521,079.30	3,037,257.63	2,950,312.32	3,707,361.28	2,561,221.64	2,807,784.74	2,667,762.19	2,872,306.72	2,996,107.11	30,844,610.00

Foreign Adoptions

Q: 1. Legislation requested by DVB includes provisions which would tighten the requirements for VA recognition of foreign adoption.

- How prevalent are foreign adoption abuses?
  - * How is this documented?
  - * How much do these abuses cost the American Taxpayer?
  - * How was this figure established?

A: This legislation was proposed by the VA in response to problems which we have encountered in the Philippines, although similar problems may also be occasionally seen in other foreign countries. Our experience in the Philippines has led us to conclude that most adoptions involving VA beneficiaries occur mainly for the purpose of gaining entitlement to additional VA benefits. A large proportion involve aged "adoptive parents" and young children. Many are grandchildren, nieces and nephews or other relatives. In many cases one or both natural parents are still alive, living in close proximity, and continuing to exert parental control. Such adoptions are encouraged by claims fixers who "assist" veterans with their claims and receive a percentage of the additional benefits paid to the veteran.

The facts in each case are determined by field examinations conducted when a claim for an adopted child is received. The above situations are commonly seen.

Even though we commonly see the abuses mentioned above, we often lack the authority to deny payment of additional VA benefits. Once we determine that payment must be made, we lack the ability to differentiate cases involving adoption abuses from other cases with dependents. Therefore, it is not possible for us to quantify the cost of adoption abuses. To place this problem in its proper perspective, however, we note that if a veteran were only 50% disabled and adopted only one child, the VA would be obligated to pay an additional $4248 over 18 years, based on current rates. If the child attended school after age 18, as they almost inevitably do when the adoption was for the purpose of maximizing VA benefits, the costs increase. If the veteran were 100% disabled the cost of 18 years of additional benefits would be $12,312 plus $18,048 for 36 months of Dependents' Educational Assistance.

Q: 2. Your legislation would allow recognition of an adoption by a government child-welfare agency or a duly-licensed child-placement agency.

- How would you propose this provision be implemented in countries which lack such government agencies or licensing procedures?
- What would prevent a licensed child-placement agency from participating in a sham adoption? What would prevent parties intent on profitting from sham adoptions from setting up a placement agency? Would you recommend that the U.S. government establish licensing standards for foreign adoption agencies?

A: We are unaware of any countries which have neither government adoption agencies nor licensure of private agencies. However, if the child was orphaned by the death of both parents, there would be no need for involvement of an agency. If the child was not so orphaned and there was no agency as specified in the proposal, there would be no VA recognition of the adoption. It is exactly these types of cases, in which there is little current investigation prior to the court decision, which we feel should not result in the payment of additional VA benefits.

We agree that a licensed child-placement agency could participate in a sham adoption and that an agency could be set up for the sole purpose of assisting claimants in satisfying this requirement of the law. This could become a serious problem and if we find problems such as you describe, we would propose additional legislation to address the issue. The current proposed legislation is based on our experience with P.L. 96-22 and we recognize that abuses can occur despite the most carefully crafted legislation. We certainly do not intend that the U.S. government establish standards for foreign adoption agencies.

Pension Income

Q: 3. With regard to income counted by the VA for purposes of computing pension and DIC rates; VA's proposed legislation would allow exclusion of insurance proceeds received by a pension receipt for replacement of destroyed or damaged real or personal property. The exclusion would be limited to the fair market value of the property.

- ° How would the VA determine the fair market value?
- ° If this provision is adopted, will the VA treat insurance proceeds in the same manner as the proceeds from the sale of similar property?
- ° How would the VA notify pensioners of this change?

A: The VA currently must determine fair market value in determining a pension claimant's net worth, the most common example being the fair market value of real property. A determination is made on an individual basis. Evidence is required from the claimant and may include, for example, a statement from a local real estate agent regarding the selling price of similar properties. If this legislation were enacted we would undertake similar development when required. One source of information which comes to mind is the "Blue Book" value of automobiles.

If the provision is adopted insurance proceeds which are reimbursement for loss simply would not be countable income for pension purposes. The rules regarding sale of property would not apply.

Changes in the law are routinely publicized by the VA through notification of veterans' service organizations and news releases to the general media. When reporting income, claimants are instructed to report all income, regardless of source, and are provided an opportunity to explain the source of the income. The VA then makes the determination of countable income under the law based on the information reported plus any other development which might be required. We do not wish to encourage claimants to decide what income to report and what to omit since such determinations are the VA's responsibility. Please note that this income exclusion change would not be widely applicable.

4. Collection of Overpayments by Offset

Q: How many military retirees are estimated to have overpayments due to the VA which could be collected from military retired pay by offset under your proposed legislation? How many veterans have overpayments due the Armed Forces which could be collected by offset from VA disability compensation?

A: The Department of Defense originally proposed the offset of debts to DoD from a military retiree's VA benefits. Nonpayment of premiums for the Survivors' Benefit Plan is, we understand, a significant problem and the vast majority of any savings which would accrue from this proposal would be realized by DoD. We have no figures on the amounts DoD hopes to realize.

When we reviewed DoD's proposal, we decided that if DoD could offset from VA benefits, then we should have the right to offset VA overpayments from DoD benefits. We were particularly thinking of situations in which the VA declared a veteran had been overpaid, began recouping from continuing compensation and the veteran receiving military retired pay simply renounced compensation in favor of retired pay, thus avoiding repayment to the VA. Because we have never had any means for collecting such overpayments from any source other than the veteran, we are unable to determine how many such cases we may have.

5. Upright Gravemarkers

Q: Why do you believe upright markers are inappropriate in the newly acquired section of the Wood National Cemetery? How many gravesites are involved? Would this provision set a precedent for other cemeteries?

A: The newly acquired property was obtained by transfer from the VA Department of Medicine and Surgery. The Director, VA Medical Center, Wood, specifically requested that language be added to the property transfer documents which requires the use of flat grave markers. This particular parcel is faced on one side by a VA domiciliary. The VAMC Director feels that upright markers will make the presence of the cemetery overly evident to the domicilary residents, and be distressing or at least discouraging to them.

In addition, private residences face another side of this property, and residents have voiced concerns about the impacts of the cemetery development and operation. It appears that it would be prudent to provide for as low-key development as is feasible. There will be approximately 4500 gravesites involved. This situation is unique, and should not set a precedent for other cemetery expansions.

6. Atomic Veterans

° The VA has authority to administratively expand the list of diseases considered radiogenic for purposes of VA benefits.

Q: Under what circumstances would you amend the list of radiogenic diseases?

A: Generally, the list would not be amended without first seeking the advice and recommendation of the Veterans' Advisory Committee on Environmental Hazards. A change in the list would be prompted by the development of additional scientific evidence concerning the radiogenicity of a disease. The Agency would be guided in its assessment of that evidence by the Advisory Committee.

Q: Has the VA ever rejected a recommendation of the Advisory Committee on Environmental Hazards?

A: No.

Q: What steps have you taken to ensure the Advisory Committee on Environmental Hazards obtains the views of veterans and other groups who advocate more liberal compensation of veterans exposed to radiation?

A: The Veterans Administration has actively solicited from a variety of sources the submission of scientific studies for consideration by the Committee. This has been done during the public meetings of the Committee and in correspondence with various groups and individuals. Studies and reports by individuals not necessarily in the mainstream of scientific thought have been considered by the Committee.

Radiation

7. Q: Has the VA established a minimum dose threshold below which radiation is considered to be not harmful and below which veterans claims should be denied?

A: No.

Cemeteries

8. S. 919 would allow the VA to fund traffic improvements necessary for safe ingress or egress from National Cemeteries.

Q: Would this provision also apply to State veterans cemeteries partially funded by VA grants? Is such expense an allowable expense for grantees?

A: No. The general intent of participation in State veterans cemeteries is to assist in the development or improvements upon an approved site. The State is to provide a site that is readily accessible by highway or public transportation per regulations. We have required the applicant to demonstrate that improvements for access are within the confines of the cemetery property. Attempting to participate in off-site improvements would appear to complicate the grant process. In many cases, it could be a State highway that serves a proposed State veterans cemetery.

Q: Have you determined who customarily pays for such expenses for private cemeteries? Is it the cemetery or the local jurisdiction responsible for traffic control?

A: No studies of this nature have been conducted. However, normal business practice would dictate that any cost incurred by the private cemetery would be passed along to the consumer--in this case, the person who buys a cemetery lot.

It is our understanding that local political jurisdictions are responsible for traffic control. It is a fairly common practice in some areas for funeral directors to hire off-duty police to assist in traffic control. This cost would also be passed along to the consumer.